

EXCHEQUER COURT OF CANADA

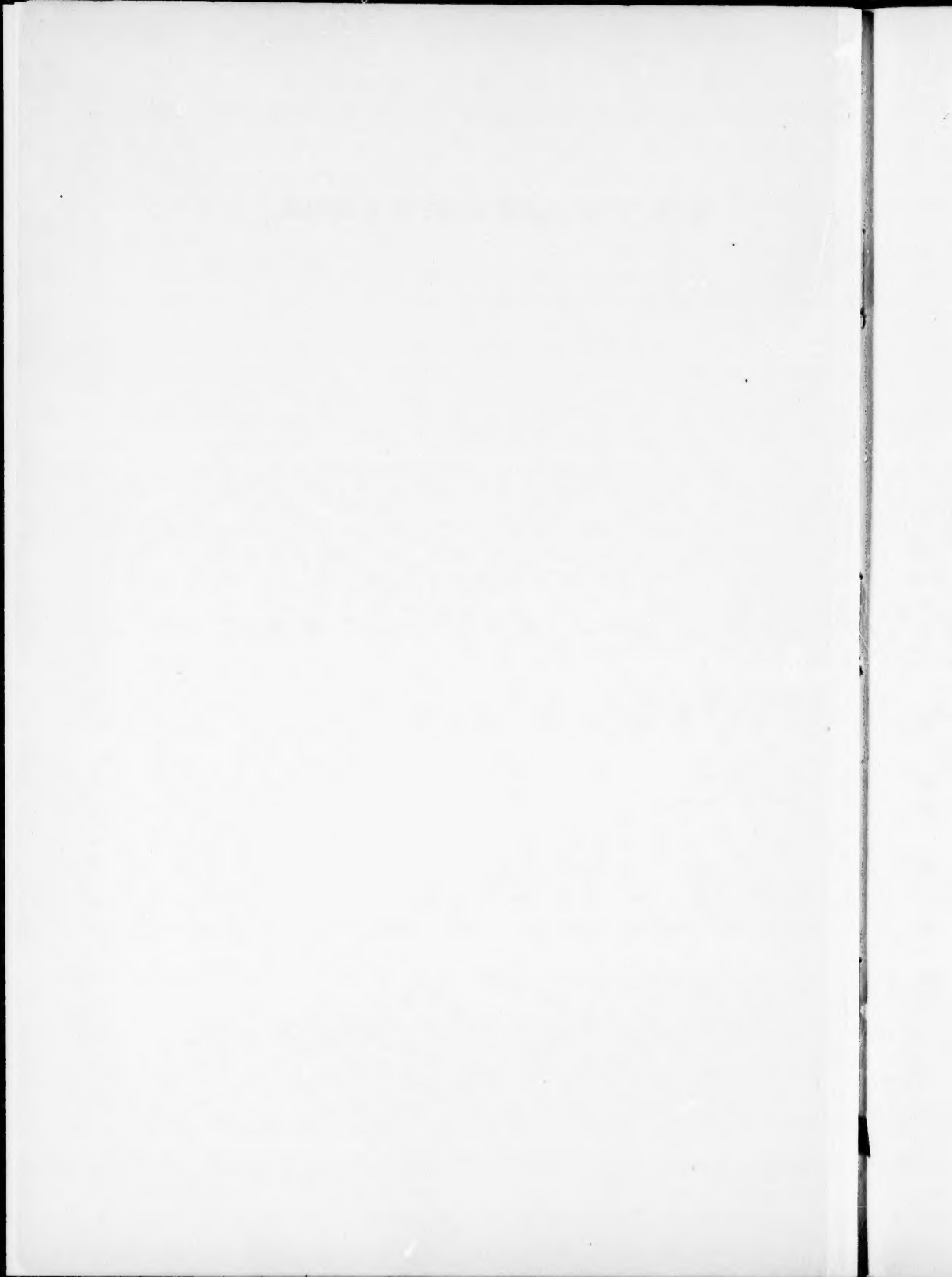
QU'APPELLE

v.

THE QUEEN

PETITION OF RIGHT

McCARTHY, OSLER, HOSKIN & CREELMAN.



In the Exchequer Court of Canada.

BETWEEN

THE QU'APPELLE, LONG LAKE & SASKATCHEWAN
RAILROAD & STEAMBOAT COMPANY, THE
QU'APPELLE, LONG LAKE & SASKATCHEWAN
LAND COMPANY (LIMITED), THE HONOURABLE
DONALD MacINNES, OSLER & HAMMOND, AND
THE HONOURABLE WILLIAM PUGSLEY,

Petitioners :

AND

HER MAJESTY THE QUEEN,

Respondent.

PETITION OF RIGHT.

MCCARTHY, OSLER, HOSKIN & CREELMAN,

Solicitors for the Petitioners.

TORONTO :

DUDLEY & BURNS, LAW AND COMMERCIAL PRINTERS, 11 COLBORNE STREET.

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"Let right be done"

(Sgd.) *Wm. L.*

In the Exchequer Court of Canada.

BETWEEN

THE QU'APPELLE, LONG LAKE & SASKATCHEWAN
RAILROAD & STEAMBOAT COMPANY, THE QU'APPELLE,
LONG LAKE & SASKATCHEWAN LAND COMPANY
(LIMITED), THE HONOURABLE DONALD MACINNES,
OSLER & HAMMOND AND THE HONOURABLE WILLIAM
PUGSLEY,

Petitioners,

10

AND

HER MAJESTY THE QUEEN,

Respondent.

To The Queen's Most Excellent Majesty:

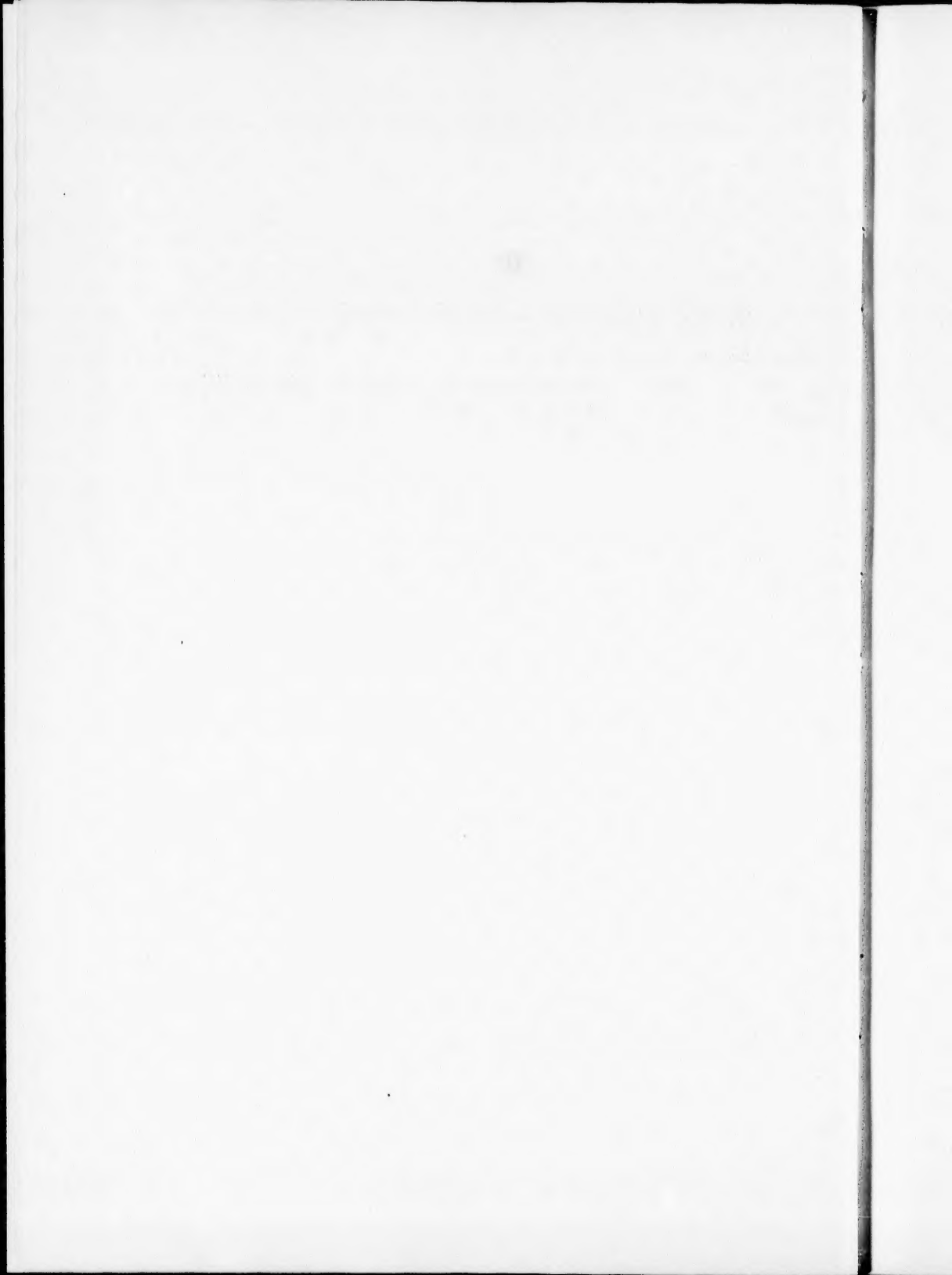
PETITION OF RIGHT.

COUNTY OF YORK. }
To Wit: }

The Humble Petition of The Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamboat Company, a Railway Company duly incorporated by an Act of the Parliament of Canada; The Qu'Appelle, Long Lake & Saskatchewan Land Company (Limited),
20 a Company duly incorporated under the provisions of the English Companies Acts; the Honourable Donald MacInnes, of the City of Hamilton, in the County of Wentworth and Province of Ontario, Senator; Osler & Hammond, of the City of Toronto, in the County of York and Province aforesaid, Brokers, and the Honourable William Pugsley, of the City of St. John, in the County of St. John and Province of New Brunswick, Queen's Counsel, Sheweth as follows:

1. Your Petitioner, The Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamboat Company (and who will be hereinafter referred to as the "Railway Company") is a Railway Company duly incorporated by an Act of the Parliament of Canada intituled "An Act to Incorporate The Qu'Appelle, Long Lake & Saskatchewan
30 "Railroad & Steamboat Company," being 46 Victoria, Chapter 72, for the purpose of

(3)



laying out, constructing and operating a single or double iron or steel railway from a point at or near Regina, the capital of Assiniboia, in the North West Territories of Canada, to some point on the North Saskatchewan River at or near the 107th degree of longitude, and with power to build and operate branch lines of railway and for other purposes of transport, and by the 8th Section of the said Act of Incorporation your Petitioner, the Railway Company, is duly authorized to receive from the Government of Canada in aid of construction, equipment and maintenance of its railway and other works, grants of land or money, bonuses, loans or gifts of money or securities for money and to legally dispose of the same.

10 2. Your Petitioner, The Qu'Appelle, Long Lake & Saskatchewan Land Company (Limited) (and who will be hereinafter referred to as the "Land Company") is a Joint Stock Company duly incorporated under the English Companies Acts for the purposes amongst others of buying, selling and dealing in lands in all parts of Canada.

3. Your Petitioner the Honourable Donald MacInnes is a Senator of the Dominion of Canada and resides in the City of Hamilton, in the County of Wentworth and Province of Ontario.

4. Your Petitioners Osler & Hammond are a firm of Brokers residing and carrying on business in the City of Toronto, in the County of York and Province aforesaid.

5. Your Petitioner the Honourable William Pugsley is a Queen's Counsel and
20 resides in the City of St. John, in the County of St. John and Province of New Brunswick.

6. Your Petitioners other than the Railway Company are nominees of and purchasers from the Railway Company of portions of the Land Grant hereinafter more fully referred to and which have from time to time been disposed of by the Railway Company.

7. By the 4th Section of an Act of the Parliament of Canada, being 48-49 Victoria, Chapter 60 and intituled "An Act to authorize the grant of certain Subsidies in Land "for the construction of the railways therein mentioned," the Governor-in-Council is duly authorized to grant to the Railway Company, Dominion Lands to an extent not
30 exceeding 6,400 acres for each mile of the Railway Company's Railway from its commencement near Regina to the navigable waters of Long Lake.

8. By the 5th Section of the said Act last recited it is provided that the grants in the said Act referred to including the grant to the Railway Company may be so made in aid of the construction of the said railways in the proportions and upon the conditions fixed by the Orders-in-Council made in respect thereof, each of the said enterprises being respectively subject to any modification thereof which may thereafter be made by the Governor-in-Council; and that except as to such conditions the said grants shall be free grants subject only to the payment by the grantees respectively of the cost of survey of the lands and incidental expenses at the rate of 10 cents per acre in cash on the issue
40 of the patents therefor.

9. By the 2nd Section of an Act of the Parliament of Canada, being 50-51 Victoria,

Chapter 23, and intituled "An Act to authorize the grant of certain Subsidies in Land for the construction of the railways therein named" the Governor-in-Council was duly authorized to grant to your Petitioner the Railway Company Dominion Lands to an extent not exceeding 6,400 acres for each mile of the Railway Company's Railway from a point near the Northern terminus of the completed portion of that railway at or near Long Lake on the navigable waters of Long Lake to a point at or near where the 52nd parallel of latitude crosses the South Saskatchewan River, thence to a point at or near the elbow of the North Saskatchewan River, with branches to Prince Albert and Battleford, about 325 miles.

- 10 10. The 5th Section of the said last recited Act contains a provision similar to the provision set forth in the 8th paragraph hereof.

11. By an Order-in-Council, duly approved by His Excellency the Governor-General, bearing date the 30th day of December, 1884, and made pursuant to the powers conferred by the said Act 48-49 Victoria, Chapter 60, it was amongst other things provided that subject to the approval of Parliament a free grant of land be made to the Railway Company to the extent of 6,400 acres per mile for the whole distance from the Canadian Pacific Railway at Regina to the navigable waters of Long Lake, a distance of about 20 miles; that the Company do re-imburse to the Government the cost of surveying the land and incidental expenses, the same being fixed at 10 cents per acre;
- 20 that the land so granted should be fairly fit for settlement and should be selected, subject to the approval of the Minister of the Interior and before the 1st day of October following the date of the said Order-in-Council, from the odd numbered Sections at the disposal of the Government in the Townships shown on the map accompanying the said Order-in-Council and more fully described in the said Order-in-Council.

12. On the 2nd June, 1886, Mr. Collingwood Schreiber, the Chief Engineer of Railways, reported to the Department of Railways and Canals that he had had the railway inspected; that the engineer employed for the service had reported the road in running order for 20 miles and the grading nearly completed for a further distance of 2 miles to the navigable waters of Long Lake.

- 30 13. Upon the completion of the said 1st Section of the said railway the Railway Company became entitled to receive the Land Grant of 6,400 acres per mile for the said 20 miles of railway, to wit 128,000 acres of land, and in due course thereafter the Railway Company through its grantee the Land Corporation of Canada did receive 128,000 acres of land pursuant to the said Order-in-Council of 30th December, 1884.

14. In the year 1880 by an Act of the Parliament of Canada, being 43 Victoria, Chapter 56, a Railway Company called the South Saskatchewan Valley Railway Company was incorporated for the purpose of constructing a railway from some point to be fixed by the Governor-General in Council on the line of the Canadian Pacific Railway west of the Province of Manitoba, thence south-westerly in the direction of the Souris and thence westerly between the line and parallel theretofore named to the Rocky Mountains on a line to be approved by the Governor-in-Council, and provision had been made by various Orders-in-Council between 5th July, 1880, and 20th June, 1887, for a land
- 40 grant to that Company. Prior to the last mentioned date the said company and your

Petitioner the Railway Company had entered into an agreement for the amalgamation of their interests and on 20th June, 1887, an Order-in-Council was passed, of which the following is a true copy :

" Certified Copy of a Report of a Committee of the Honourable
 " the Privy Council, approved by His Excellency the
 " Governor-General in Council on the 20th June, 1887.

10 " On a Memorandum, dated 10th June, 1887, from the Minister of the Interior,
 " stating that the South Saskatchewan Valley Railway Company and the
 " Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company have
 " agreed to coalesce and amalgamate and the former company has applied for a
 " grant of 6,400 acres per mile in favor of the latter company.

20 " The Minister observes that the South Saskatchewan Valley Railway Com-
 " pany were incorporated in 1880 (43 Vic. Cap. 56), and by Order-in-Council of the
 " 15th March, 1883, were granted the privilege of purchasing 6,400 acres of land
 " per mile on either side of their line between Prince Albert and the south branch
 " of the Saskatchewan River, a distance of about 20 miles at \$1.06 per acre, and
 " after amendments to their charter in 1882 and 1884, the Act 1885 (48-49 Vic.,
 " Cap. 17), finally extended the time for the commencement of the railway for two
 " years from the passing of that Act. Not having commenced construction with-
 " in that time their charter lapsed on the 1st May, 1887, and consequently their
 " right to purchase any Dominion lands ceased also.

30 " The Minister observes further that the Qu'Appelle & Long Lake Railway
 " Company have completed their line from Regina to Long Lake, and he is of
 " opinion that the continuation of that railway to Battleford would greatly benefit
 " that section of the country, and he recommends that subject to the approval of
 " Parliament a grant of 6,400 acres of land per mile of their line be made to the
 " Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company from
 " the present termination of their road at Long Lake to a point at or near where
 " the 52nd degree of latitude crosses the Saskatchewan, a distance of about 130
 " miles, and from thence to the elbow of the North Saskatchewan, a distance of
 " about 25 miles, with a branch to Prince Albert, a distance of about 85 miles, and
 " also a branch to Battleford, a distance of about 85 miles, as shewn upon the
 " annexed map, making a total distance of about 325 miles, equal to 2,080,000
 " acres, upon the following terms:—

" First. That the location, gauge and grades of the railway be submitted to
 " and approved by Government and shall be according to specifications hereto
 " attached.

40 " Second. That the grant to the Company shall consist of lands fairly fit for
 " settlement, and shall be made up out of the unoccupied and unclaimed odd-
 " numbered sections at the disposal of the Government, or out of alternate town-
 " ships or blocks of land, within ten miles of the line of the railway on either side
 " thereof in so far as practicable without interfering with any previous grants or
 " reserves.

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"Third. That any deficiency in the area shall be made up out of any available lands in the North-West Territories in the discretion of the Governor-General in Council.

"Fourth. That the Company shall re-imburse to the Government the cost of survey of the land, and incidental expenses, the same to be fixed at ten cents per acre.

10 "Fifth. That each *bona fide* settler found on land granted to the Company at the time such is earned, the Minister of the Interior being the judge in the event of any dispute as to his *bona fides*, shall have the right to retain the land occupied by him to the extent of not exceeding 320 acres on paying the Company therefor at a rate not exceeding in any case \$2.50 per acre, payable one-fourth in cash and one-fourth in each of the three succeeding years, with interest on the unpaid balances at a rate not exceeding six per cent. per annum.

"Sixth. That the Company shall complete, equip and have running fifty miles of the railway, commencing at the termination of the portion of the road already completed, within one year from the 20th day of July next, from thence to the crossing of the South Saskatchewan in the following year, and the remainder of the distance by the 25th day of May, 1891.

20 "Seventh. That the first grant of 6,400 acres per mile shall be made to the Company on the completion to the satisfaction of the Government of the first fifty miles and after that the grant shall be made from time to time on the completion of each section of ten miles.

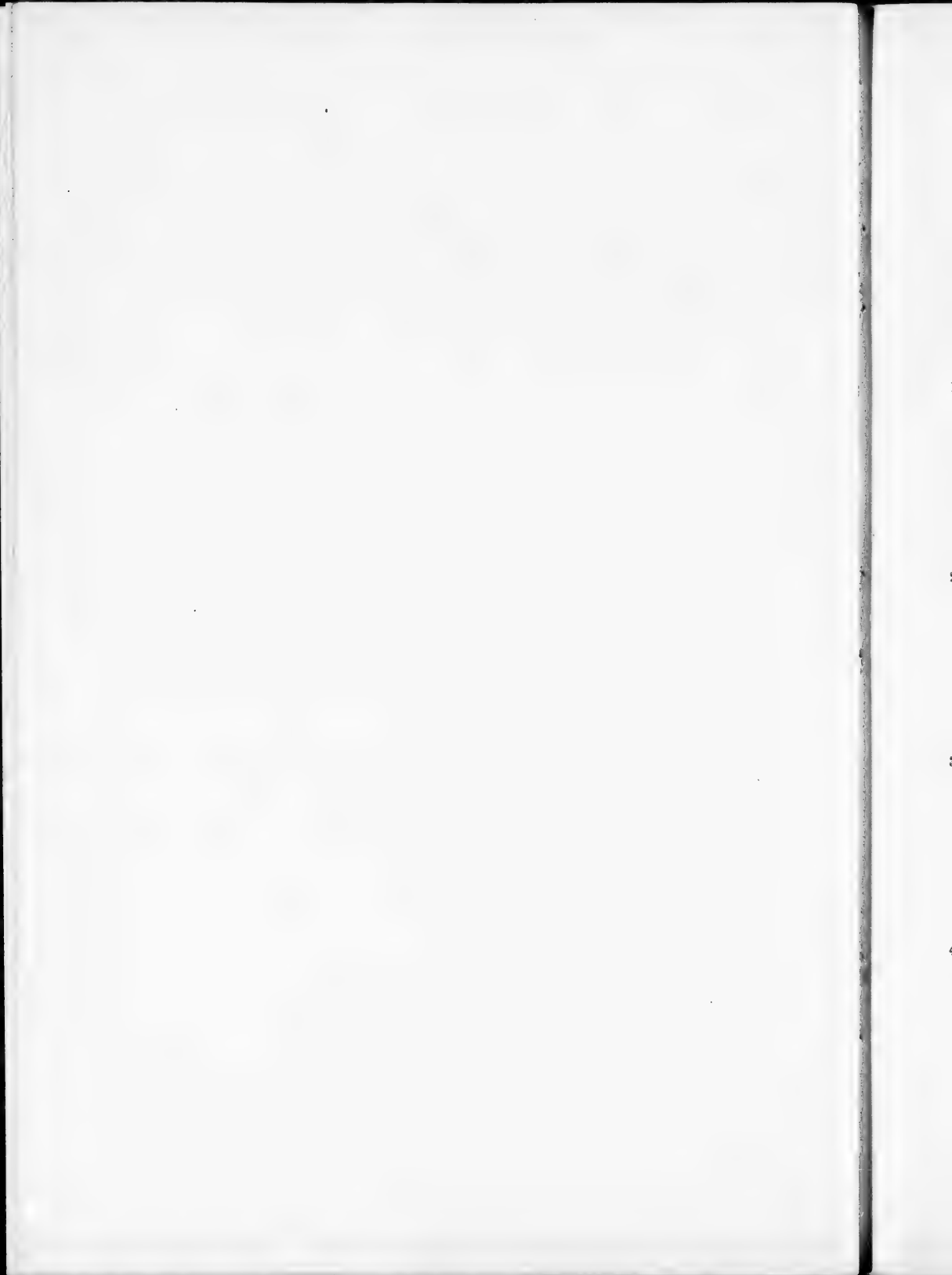
"Eighth. That should the Company make default and construct, equip and have running continuously from the northern terminus of the portion of their railway already built northward, less than 20 miles by the 20th July, 1888, or less than the remaining distance to the crossing of the South Saskatchewan at or near the point mentioned in the charter within the following year, or less than the whole of their railway by the 25th May, 1891, the whole being by the said last mentioned date completely equipped and running, the lands to which 30 they would be entitled which may be unearned at the time they make default shall be absolutely forfeited, and all claim to the same on the part of the Company shall be void.

"The Committee submit the above recommendations for Your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk Privy Council.

"To the Honourable
The Minister of the Interior."

15. On 1st June, 1888, a further Order-in-Council was passed, of which the following 40 is a true copy:—



"Certified Copy of a Report of a Committee of the Honourable
 "the Privy Council, approved by His Excellency the
 "Administrator of the Government in Council, on the
 "1st June, 1888.

10 "The Sub-Committee of the Privy Council have had under consideration certain proposals made by parties interested in a contemplated amalgamation of the South Saskatchewan Valley Railway and the Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company, such proposals being embodied in memoranda received from such parties in June, 1887, and in March, 1888, and supplemented by official statements from the several Government Departments bearing on the question of the extent and cost of freight and other transport in the districts covered by the scheme of the lines named.

"The Sub-Committee report on this matter as follows:—

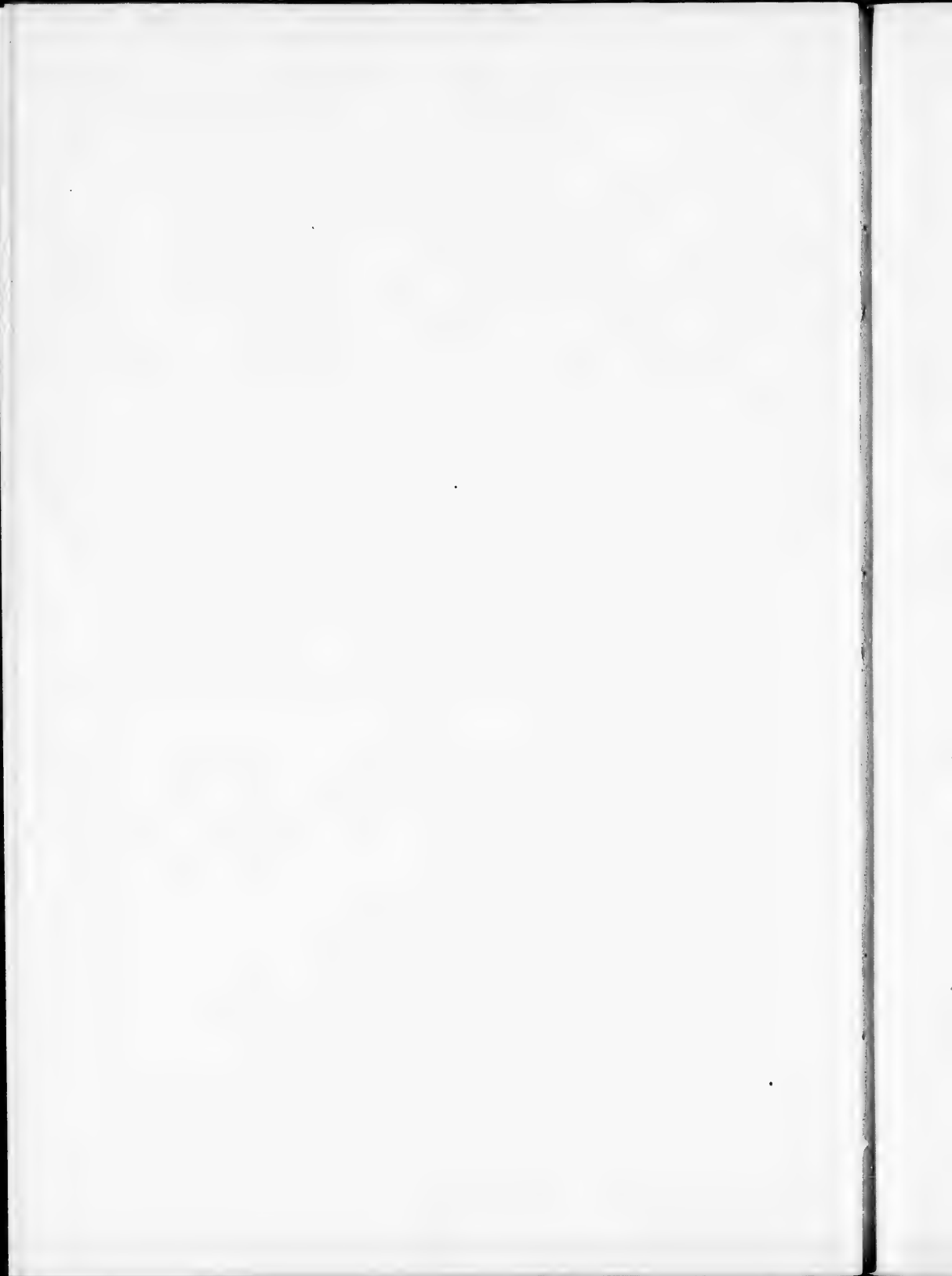
20 "That the line of railway embraced in the schemes of these Companies, namely, between Regina and the North Saskatchewan River with branches to Battleford and to Prince Albert, a total of about 345 miles, has been subsidized in land by the Dominion Government by the Acts 48-49 Vic., Cap. 60, and 50-51 Vic., Cap. 23, to the extent of 6,400 acres per mile, making a total of about 2,208,000 acres. The first 20 miles, namely, from Regina to the foot of Long Lake, has been completed, the contract for the remainder being represented by an Order-in-Council dated the 20th of June, 1887.

30 "That the Hon. D. MacInnes, and Mr. G. R. Pugsley, representing the said companies, urge that they propose to complete immediately, as soon as satisfactory financial arrangements can be made, a line of railway connecting the Canadian Pacific Railway, at Regina, with the Saskatchewan District, but that though subsidized in lands by the Dominion Government, it is not found to be practicable at the present time to build their line with these agricultural lands as a financial basis. To aid them in this direction then, they look to the fact that for the transport service to be necessarily incurred in its several branches the Government has to expend annually considerable sums of money, while the required communication thus obtained is only arrived at after tedious and troublesome journeys involving delays of some weeks. They ask that the Government will commute for a fixed sum and for a period of years the amount estimated as their present cost of transport, and that the earnings of the Company for such transport should be a set-off against this amount, the Government taking also a lien on the Company's lands as security for the balance, if any.

40 "That the Companies' estimate of expenditures from the several Government Departments, based on the official statements, is as follows:—

" Indian Department	\$22,380
" N. W. Mounted Police	30,375
" Post Office	16,000
" Telegraph	2,000
" Messengers and others	2,000

\$72,755



- "The Sub-Committee, reviewing all the facts alleged and known, are brought to the conclusion that the speedy construction of a line of railway direct from Regina to the Saskatchewan District is a matter of very great importance in the interests of the public and of the Government, both as affecting the maintenance of good order in the Northern Districts of the North-West, the development of the rising centres in that district, including Prince Albert and Battleford, and of the country along the route to be traversed, and further, as effecting an important reduction to the Government on the cost of transport of men, supplies and mails, service which must of necessity be maintained and one which under existing circumstances can only be maintained subject to peculiar disadvantages and expense, and they accordingly recommend that the views of the Companies in question be met by admitting them to a contract for the work of transport required by the Government between Regina and Saskatoon on the South Saskatchewan, a distance of about 140 miles from the present terminus, or about 160 miles from Regina, on an estimated basis of \$50,000 a year, which sum the Government shall definitely undertake to pay for a period of ten years, that as against this amount shall be set the cost of transport actually incurred, based on rates and charges to be fixed by Order-in-Council; further, that the difference, if any, in excess of the sum named, \$50,000, shall be paid by the Government, the amount, if any, by which the actual cost of transport falls short of \$50,000, being covered by a lien by way of mortgage on the lands already granted to this railway, or of an equivalent portion thereof, based on a valuation of \$1.50 per acre, or at the option of the Government be a first charge against moneys received on account of land sales by the Company; it being a condition of the said agreement that payments on account thereof shall be made semi-annually, commencing at the expiration of six months from the date of the completion of the road to Saskatoon, and its acceptance by the Government under the land subsidy contract represented by the Order-in-Council of the 20th of June, 1887.
- "The Committee concurring in the above submit the same for Your Excellency's approval, subject to the sanction of Parliament.

"(Signed) JOHN J. MCGEE,

"Clerk Privy Council.

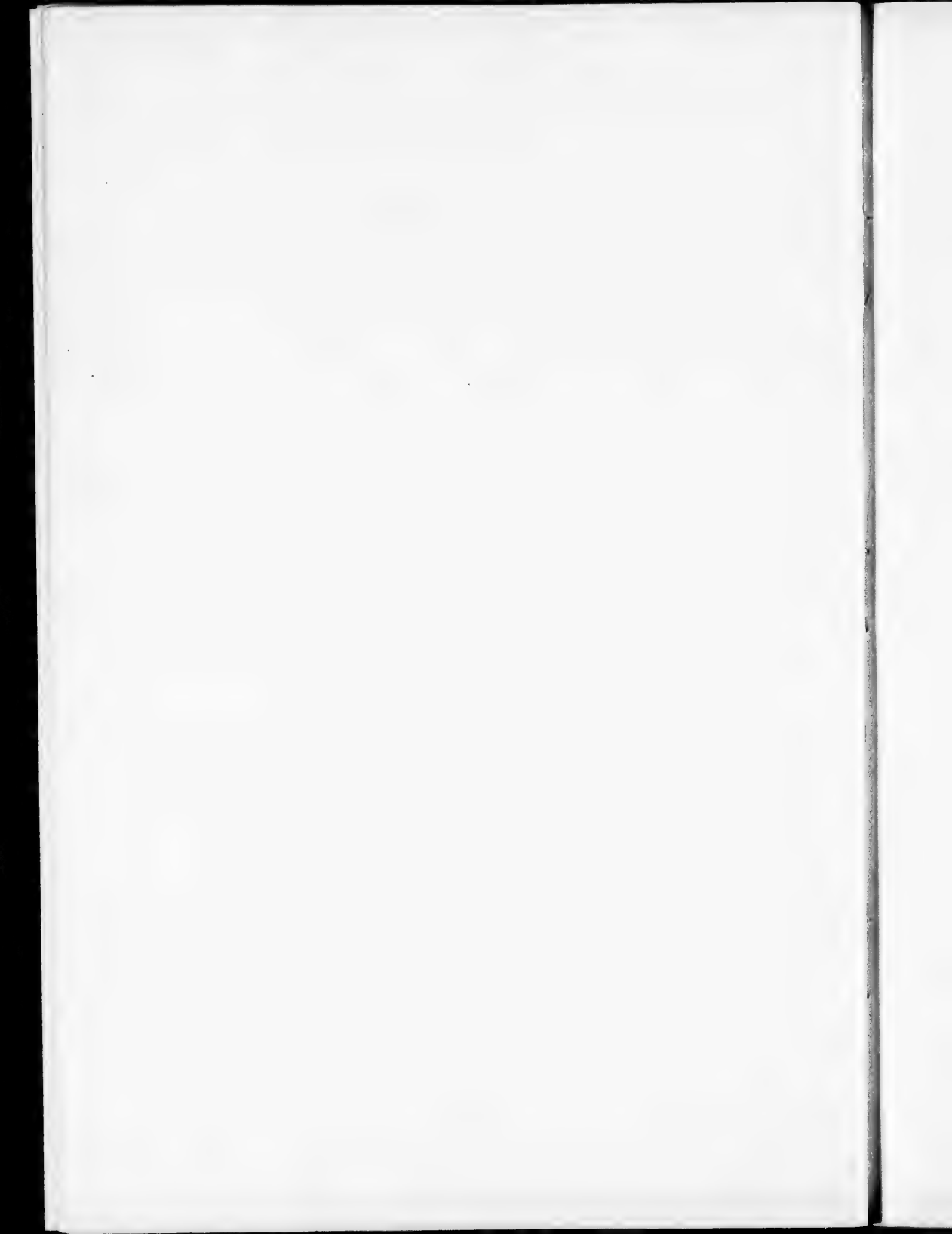
"To the Right Honourable

"The Acting Minister of the Interior."

16. On 16th June, 1888, a further Order-in-Council was passed, of which the following is a true copy:—

- "Certified Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on the 16th June, 1888"

"On a Memorandum dated 9th May, 1888, from the Acting Minister of the Interior, stating that the Order-in-Council of the 20th June last, authorizing a grant of land to the Qu'Appelle, Long Lake & Saskatchewan Railway &



"Steamboat Company, among other things provided that the Company should
 "complete, equip and have running fifty miles of the railway, commencing at the
 "termination of the portion of the road already completed, within one year from
 "the 20th day of July, 1887.

"The Acting Minister further states that Messrs. MacInnes and Pugsley now
 "represent on behalf of the Company that owing to certain delay which has
 "taken place in their negotiations they are obliged to ask for an extension of
 "time to the 1st January, 1889.

10 "The Acting Minister, while regretting that the Company have not been
 "able to arrange for the construction of the above fifty miles during the cur-
 "rent season, is of opinion that no good purpose would be served by refusing
 "to comply with this request and recommends that the Order-in Council of the
 "20th June be amended by extending the time for the completion of the fifty
 "miles of the railway mentioned therein from the 20th day of July, 1888, to the
 "1st day of July, 1889.

"The Committee submit the same for Your Excellency's approval.

"(Signed) JOHN J. MCGEE,

"Clerk Privy Council.

"To the Right Honourable

20 "The Acting Minister of the Interior."

17. On 11th July, 1888, a further Order-in-Council was passed, of which the
 following is a true copy :—

"Certified Copy of a Report of a Committee of the Honourable
 "the Privy Council, approved by His Excellency the
 "Governor-General in Council, on the 11th July, 1888.

30 "On a Memorandum dated 5th July, 1888, from the Acting Minister of the
 "Interior, submitting with reference to the Order-in-Council of the 20th June,
 "1887, providing for a grant of 6,400 acres of land per mile of their line to the
 "Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company, for a
 "total distance of about 325 miles, including branch lines, that the specifications
 "of location, gauge and grades of the said railway referred to in Clause No. 1 of
 "the terms of the Order-in-Council under which the said land grant was made,
 "through inadvertence, did not accompany the memorandum to Council and
 "were not attached to the said Order-in-Council, of the above mentioned date.

"The Acting Minister, therefore, recommends that the specifications of
 "location, gauge and grades, hereto attached, be now incorporated with the said
 "Order-in-Council of the 20th June, 1887, which Order shall in all other respects
 "continue in force and have full effect as passed.

"The Committee submit the same for Your Excellency's approval.

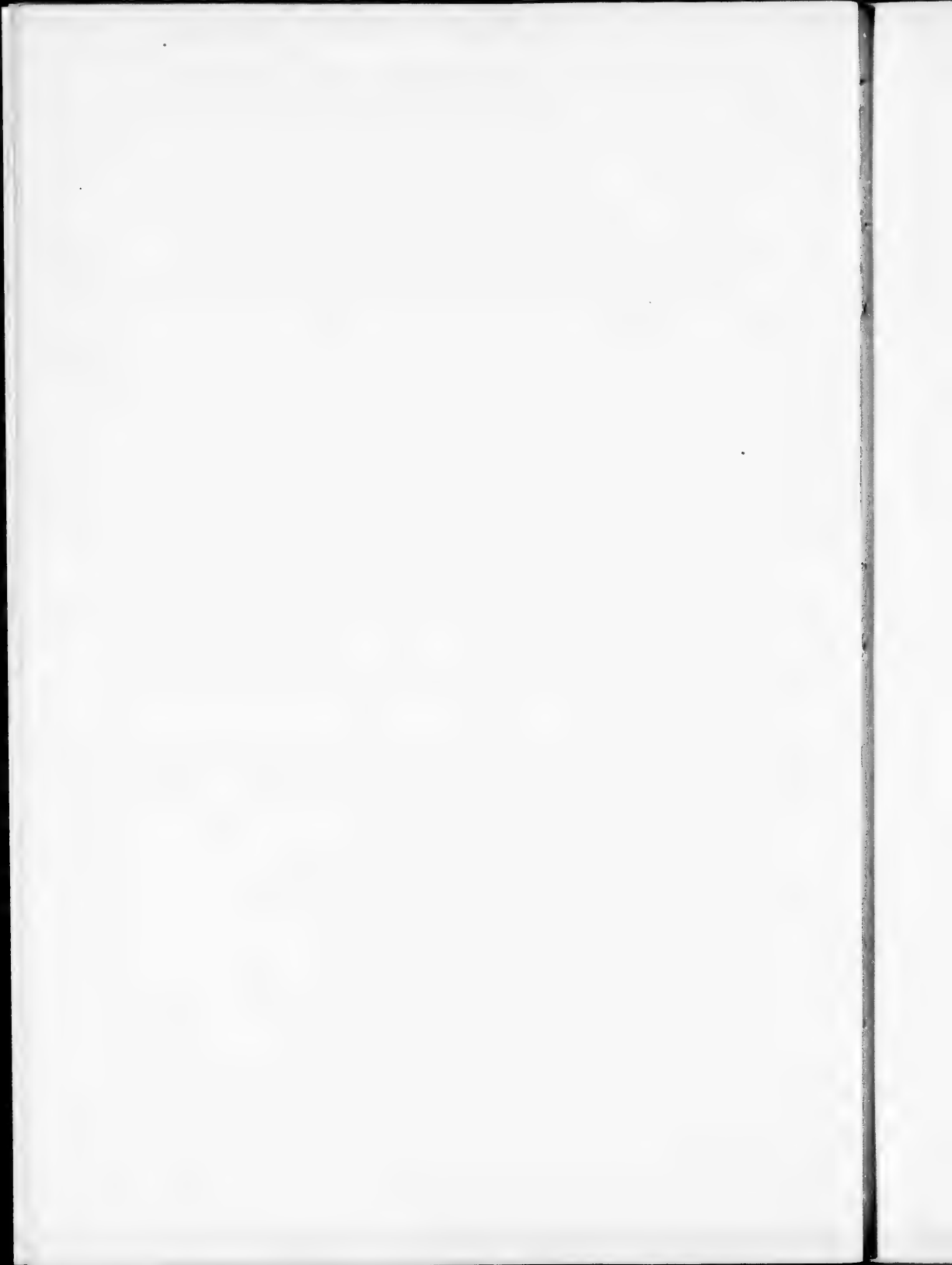
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"(Signed) JOHN J. MCGEE,

"Clerk Privy Council.

"To the Right Honourable

"The Acting Minister of the Interior."



18. The specifications referred to in the said last mentioned Order-in-Council and which formed part thereof are not material to the Petition inasmuch as the railway in question was duly completed to the satisfaction of the Canadian Government.

19. By a memorandum dated 4th August, 1888, the Honourable the Minister of Railways and Canals submitted to His Excellency the Governor-General in Council the draft of an agreement between Her Majesty the Queen, therein called the Government and therein represented and acting by the Honourable John Henry Pope, Minister of Railways and Canals of Canada, and the Railway Company for the work of transporting Government supplies, mails and men over the Railway Company's proposed railways
10 from Regina to Saskatoon, and on the 11th day of August, 1888, an Order-in-Council was passed authorizing the Minister of Railways and Canals to sign the said agreement on behalf of the Government of Canada.

20. The said agreement was duly executed by the said the Minister of Railways and Canals and by the Railway Company; but as it was soon afterwards superseded by a further agreement which is hereinafter more fully referred to, your Petitioners do not deem it necessary to set forth its contents in this Petition, but they crave leave to refer to the same when produced at the hearing of this Petition.

21. On 10th June, 1889, a further Order-in-Council was passed, of which the following is a true copy:—

20 “Certified Copy of a Report of a Committee of the Honourable
“the Privy Council, approved by His Excellency the
“Governor-General in Council, on the 10th June, 1889.

“On a Memorandum dated 6th June, 1889, from the Minister of the Interior,
“representing that by Order-in-Council of the 16th of June, 1888, the Qu'Appelle,
“Long Lake & Saskatchewan Railway & Steamboat Company were granted an
“extension of time to the 1st of July, 1889, for the completion of 50 miles of
“their railway from the terminus of the completed portion of the line at Long
“Lake, and that the Company now ask that the time for the completion of the
30 “first fifty miles be further extended, as it will be impossible for them to
“complete that distance by the 1st of July next, and they represent that the
“land subsidy, which their failure to complete the fifty miles by the stipulated
“time would cause them to forfeit, is essential to the construction of this railway.

“The Minister is satisfied of the *bona fides* of the Company and their ability
“to carry out the undertaking, and he is of opinion that under the circumstances
“their request should be complied with, and he therefore recommends that the
“time within which the Qu'Appelle, Long Lake & Saskatchewan Railway &
“Steamboat Company shall be required to complete the first fifty miles of their
“line, beyond the present terminus of the railway at Long Lake, in order to
“entitle them to the land grant allotted them by Order-in-Council of the 20th of

" June, 1887, and approved by 50-51 Victoria, Chapter 23, be extended to the 1st of November, 1890.

" The Committee submit the above recommendation for Your Excellency's approval.

" (Signed) JOHN J. MCGEE.

" Clerk Privy Council.

" To The Honourable

" The Minister of the Interior.

22. By an Act of the Parliament of Canada, being 52 Victoria, Chapter 5, assented to on the 2nd day of May, 1889, and intituled " An Act respecting a certain Agreement therein mentioned with The Qu'Appelle, Long Lake & Saskatchewan Railroad & " Steamboat Company " and which is in the Act itself expressed to have been enacted in order to enable the Railway Company to complete its Railway from Regina to some point on the South Saskatchewan River at or near Saskatoon and thence northward to Prince Albert, the Governor in Council was duly authorized to enter into a contract with the Railway Company for the transport of men, supplies, materials and mails for 20 years and to pay for such services during the said term \$80,000 per annum in manner following, that is to say :

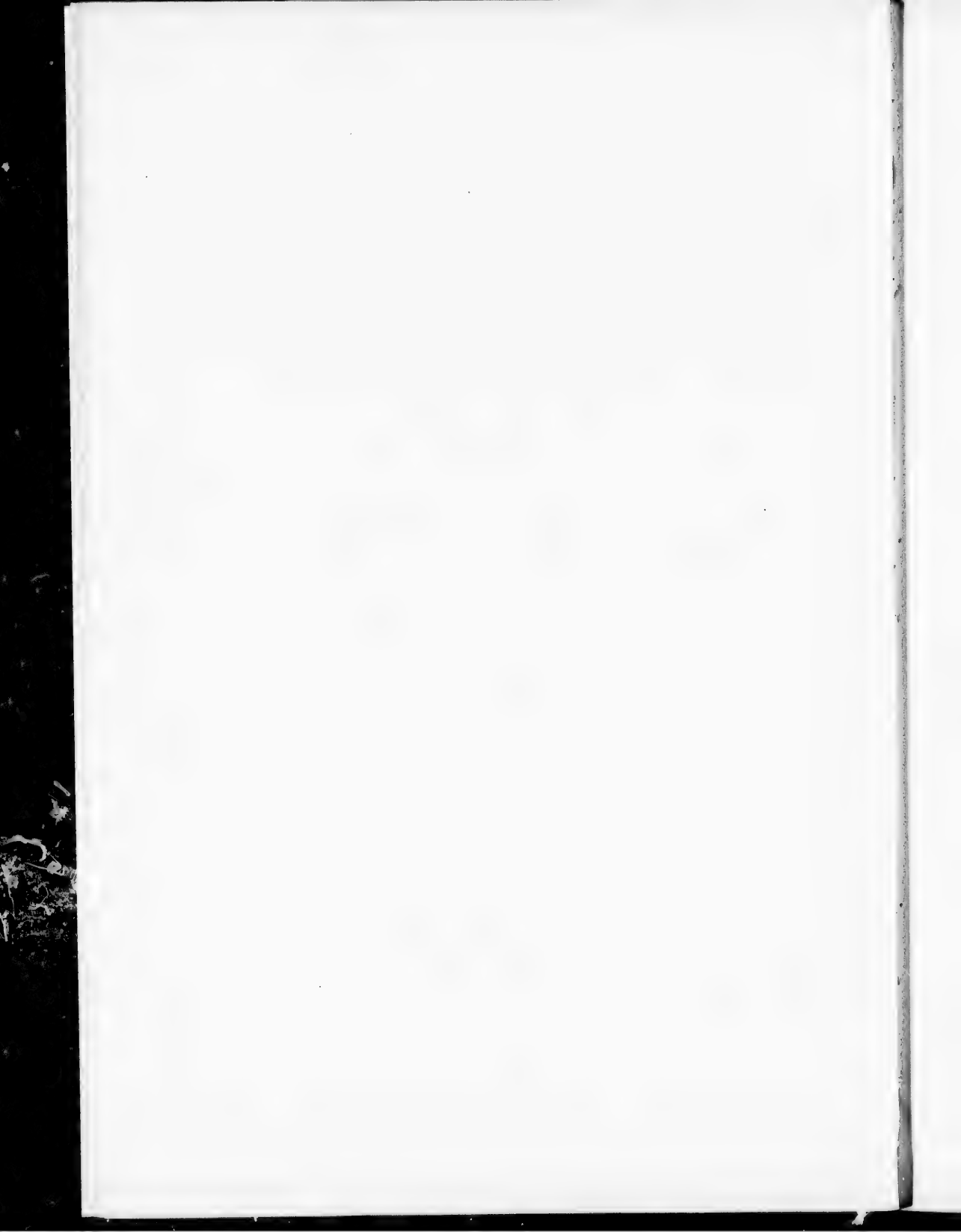
20 " (1) ' The sum of fifty thousand dollars to be paid annually on the " construction of the railway to a point at or near Saskatoon such payment to " be computed from the date of the completion of the railway to such point ; " and the remaining thirty thousand dollars annually on the extension of the " railway to Prince Albert, such payment to be computed from the date of such " last mentioned completion : Provided that if the second portion of the said " railway is not built and operated to Prince Albert within two years after the " completion of the railway to the South Saskatchewan as aforesaid, the payment " of fifty thousand dollars shall cease until the whole railway is finished to " Prince Albert.

30 " (2) ' Such sums shall be paid out of any unappropriated moneys forming " part of the Consolidated Revenue Fund of Canada.' "

23. On 26 June, 1889, a further Order-in-Council was passed, of which the following is a true copy :—

" Certified Copy of a Report of a Committee of the Honourable
" the Privy Council, approved by His Excellency the
" Governor-General in Council, on the **26th June, 1889.**

40 " On a Report dated 21st June, 1889, from the Minister of Railways and
" Canals, stating that since the execution of an Agreement between the Queen and
" the Qu'Appelle, Long Lake & Saskatchewan Railway Company, authorized by
" the Order-in-Council of the 11th August, 1888, other negotiations have been
" proceeded with for the rapid construction of the railway from Regina to



"Saskatoon, and thence northward to Prince Albert; and that these negotiations have resulted in an Agreement, the terms and conditions of which are set out in the Draft Agreement hereunto annexed.

"The Minister submits such Draft Agreement for approval, and recommends that he be authorized to sign the same on behalf of the Government.

"The Minister further recommends that notwithstanding any previous Order-in-Council, or Orders-in-Council, the right of the Company to the land grant of 6,400 acres per mile, shall be extended until the 1st November, 1890, and if the road be completed to Saskatoon by that time, then for two years more.

10 "The Minister further recommends that the Order in-Council of the 11th July, 1888, respecting the specifications for the construction of the said Railway be rescinded, and that the Railway be constructed up to the standard of the Canadian Pacific Railway in similar country.

"The Minister further states that he has been informed that as soon as the consent of the Governor-in-Council is obtained, an arrangement will be made between the Qu'Appelle, Long Lake & Saskatchewan Railway Company and the Canadian Pacific Railway Company in relation to the working of the line of the former by the latter Company by which the Canadian Pacific Railway Company engage to supply the rolling stock necessary for the Company's business, and to operate the line for six years.

20 "The Minister states that such arrangement will be submitted to the Governor-in-Council when the details thereof are made to the satisfaction of the Minister of Railways and Canals.

"The Committee submit the above recommendations for Your Excellency's approval.

"(Signed) JOHN J. MCGEE,

"Clerk Privy Council.

"To the Honourable

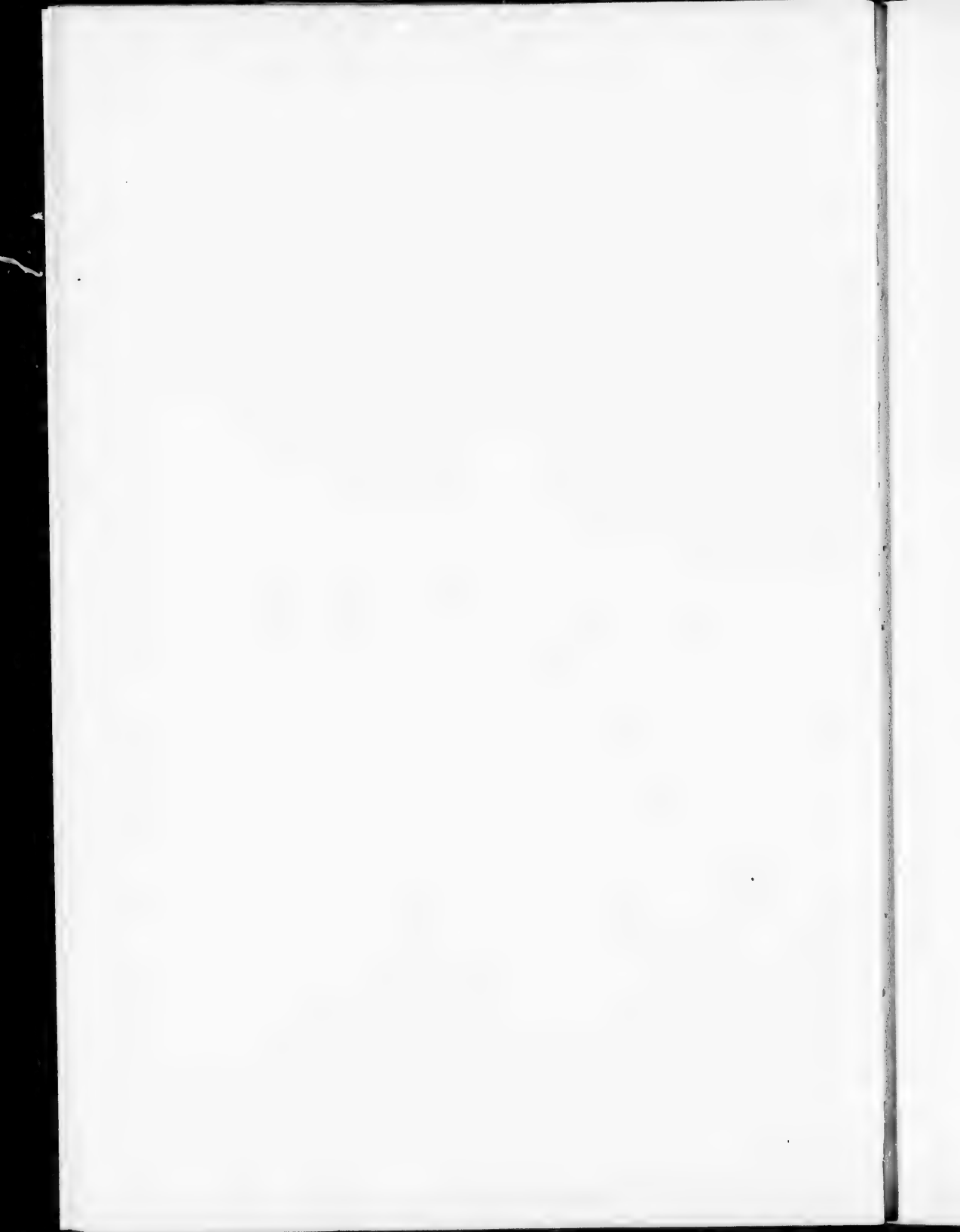
"The Minister of Railways and Canals."

30 24. The agreement the draft of which is referred to in the last mentioned Order-in-Council as approved of therein was duly executed by the Right Honourable Sir John Alexander Macdonald, then Acting Minister of Railways and Canals of Canada, and also by the Railway Company, and is now in full force and effect. The said Agreement is in the words and figures following, that is to say:—

"THIS AGREEMENT made between Her Majesty, the Queen, hereinafter called the Government, and herein represented and acting by the Right Honourable Sir John Macdonald, G.C.B., Acting Minister of Railways and Canals of Canada, and the Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company, hereinafter called the Company.

40 "WITNESSES:—

"1. WHEREAS the Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company have become entitled to a land grant by the Dominion Government under the Acts 48 and 49 Vic., Cap. 60, and 50 and 51 Vic., Cap. 23, to the



"extent of six thousand four hundred acres per mile of their railway, making a
 "total of about two million two hundred and eight thousand acres, and the first
 "twenty miles of the said railway, namely, from Regina to the foot of Long Lake,
 "having been completed, the said Company propose to continue the same to some
 "point on the Saskatchewan River near Saskatoon and thence northward to
 "Prince Albert.

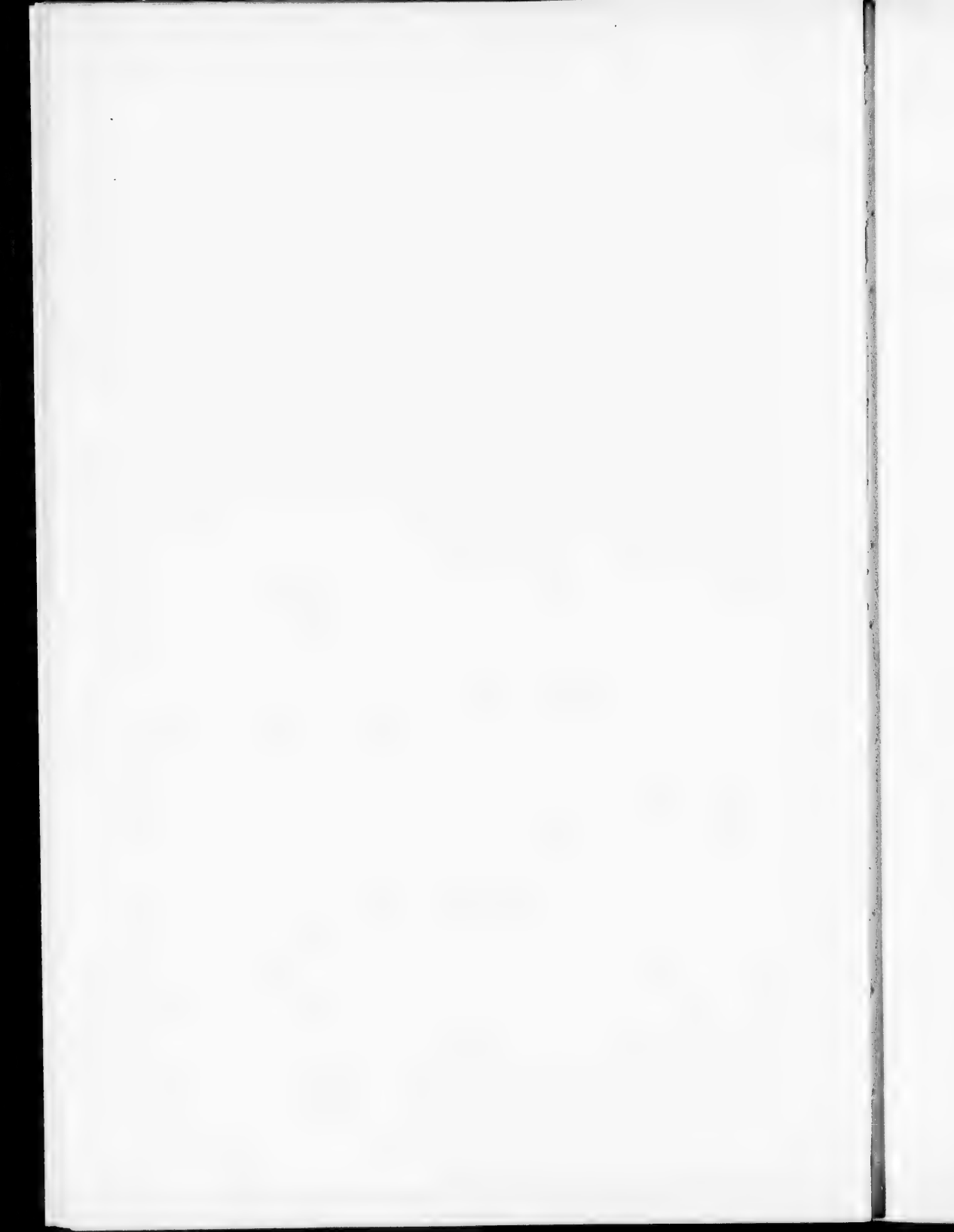
10 "2. AND WHEREAS by an Act of the Parliament of the Dominion of Canada,
 "52 Vic., Cap. 5, assented to on the 2nd day of May, 1889, it was enacted that
 "the Governor in Council may enter into a contract with such Company for the
 "transport of men, supplies, materials and mails for twenty years, and may pay
 "for such services, during the said term, eighty thousand dollars per annum, in
 "manner following, that is to say :—The sum of fifty thousand dollars to be paid
 "annually on the construction of the railway to a point at or near Saskatoon,
 "such payment to be computed from the date of the completion of the railway to
 "such point; and the remaining thirty thousand dollars annually on the extension
 "of the railway to Prince Albert, such payment to be computed from the date of
 "such last mentioned completion; provided that if the second portion of the said
 "railway is not built and operated to Prince Albert within two years after the
 20 "completion of the railway to the South Saskatchewan, as aforesaid, the payment
 "of fifty thousand dollars shall cease until the whole railway is finished to Prince
 "Albert.

"3. AND WHEREAS, in view of the fact that the speedy construction of a
 "line of railway direct from Regina into the Saskatchewan District is a matter
 "of very great importance in the interest of the public and of the Government,
 "both as affecting the maintenance of good order in the northern districts of the
 "North-west and the development of the rising centres in those districts including
 "Prince Albert and Battleford, and of the country along the route to be traversed,
 "and also as affecting an important reduction to the Government in the cost of
 "the transport of men, supplies, materials and mails; therefore the Government,
 30 "under the authority of the said Act, has agreed to enter into this contract with
 "the Company.

"NOW THEREFORE THIS INDENTURE WITNESSES :—

"That the Government and the Company have agreed and do hereby agree
 "as follows :—

40 "1. That the Company hereby bind and oblige themselves to complete the
 "said railway to a point on the Saskatchewan River, near Saskatoon, by the
 "first day of November, 1890, and to Prince Albert within two years after the
 "completion of the railway to the South Saskatchewan as aforesaid, and carry by
 "their regular trains, for the Government, for a period of twenty years, all mails,
 "men, supplies and materials of every description and kind required for the public
 "service from any point on the said projected railway to any other point thereon
 "without delay, such carriage to be upon such requisition or instruction from the



" Government or from any officer thereof as shall hereafter from time to time be designated by the Government.

" 2. In consideration thereof, and with a view to assisting the Company to make the financial arrangements necessary for the construction of the said railway to Saskatoon or some other point on the South Saskatchewan River at or near Saskatoon, and to continue the same to Prince Albert, the Government hereby binds and obliges itself to pay each year to the said Company the sum of eighty thousand dollars lawful money of Canada (if paid in Canada, or its equivalent in sterling money if paid in England) for the period of twenty years, in manner following, that is to say: the sum of fifty thousand dollars to be paid annually on the construction of the railway to a point at or near Saskatoon, such payment to be computed from the date of the completion of the railway to such point; and the remaining thirty thousand dollars annually on the extension of the railway to Prince Albert, such payment to be computed from the date of such last mentioned completion, subject to the said recited provision in the said Act contained; and that such annual amounts shall be payable in equal half-yearly payments, commencing at the expiration of the six months from the dates of such completion as aforesaid, and thereafter in half-yearly payments on such days in each year as may be agreed upon between the Government and the Company, and to be made at such places in the City of London, England, or Montreal, Canada, as shall be fixed by the Company.

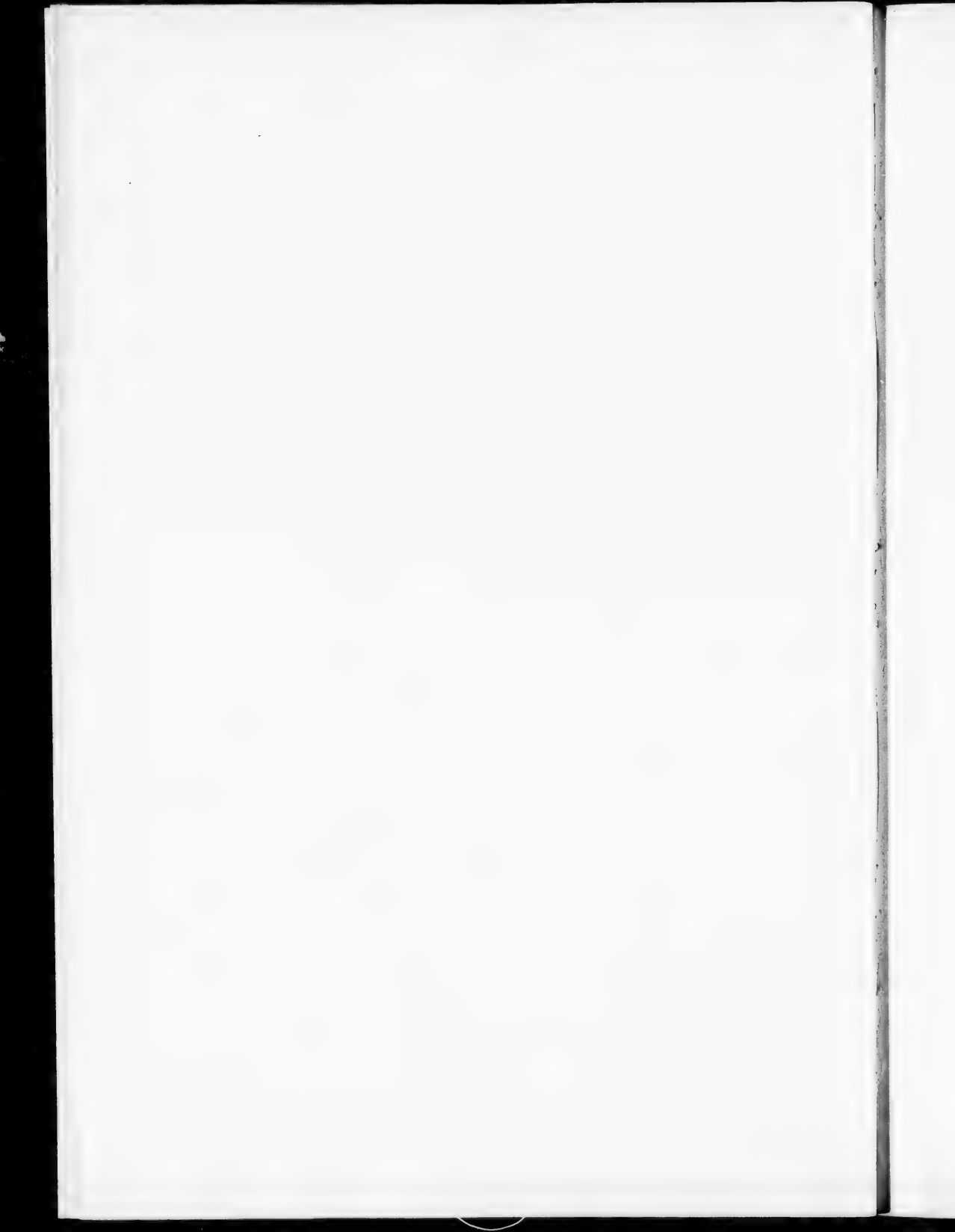
" And the said sum of \$80,000 per annum shall be applied in payment or on account of the rates chargeable as hereinafter provided for the said transport.

" 3. Such mails, men and materials, supplies and other things to be so carried by the Company at rates and charges not exceeding five cents per mile for passengers, and for freight not exceeding twenty-five per cent. over the rates now authorized to be charged by the Manitoba and North-Western Railway Company, which rates shall not be altered, reduced or modified for the period of six years from the date of this agreement, except at the request of the Company.

" 4. And it is hereby further agreed that the Company may assign the said several half yearly payments composing the twenty yearly payments of eighty thousand dollars each to any trustee or trustees who may be appointed to hold the same by way of security for any bond or other securities which may be issued by the Company in respect of their railway and after due notice to the Government of such assignment, the said several half-yearly payments shall be made to such trustee or trustees for the benefit of the holders of such bonds or other securities.

" 5. If in any year during the pendency of this contract the amount which the Company shall earn thereunder by the work of the transport, hereby contracted for, shall exceed the said sum so payable to the Company, or to such trustee or trustees, in respect of such year the surplus of such earnings over that sum shall be applied to cover the deficiency or the deficiencies of former years, if there be any, and if there be no such deficiency, such surplus shall be paid to the Company.

" 6. By way of indemnity to the Government, in case the amount earned



" by the Company for such service should not amount to the sum paid by the Government in any year, the Government, as the land grant of the Company is earned from time to time, shall retain one-third of the land grant so earned, which shall be held by the Government as a first charge or lien securing the repayment of any such deficiency, and shall issue to the Company patents for the remaining two-thirds thereof.

10 " 7. A complete adjustment of account, comprising all transactions entered into or made between the Government and the Company under this agreement shall be made every year, and interest, if any, shall be computed at the rate of 4 per cent. per annum upon each annual deficit from date of such deficit until the amount due to the Government is paid.

20 " 8. If, during the said period of twenty years, the Government sell any land included in the land grant so retained or if the same is sold by the Company with the consent of the Government, patents therefor shall be issued to the purchaser upon payment to the Government of the prices for which said land has been sold; it being distinctly understood and agreed that the Government, in the event of any deficiency, shall retain the whole proceeds of the sale of any portion of the said one-third acres so retained until the expiration of the said period of twenty years, allowing interest thereon at the rate of 4 per cent. per annum; but in the event of no deficiency the Government may if they see fit cause to be returned to the Company a pro rata proportion of the land so retained.

" 9. The Government and the Company shall from time to time fix and determine the price at which such lands shall be sold, such price to be not less than \$1.50 per acre.

" 10. At the end of such period of twenty years, if on accounting on such basis, the balance be against the Company, the Company shall make good any such balance to the Government.

30 " IN WITNESS WHEREOF the said Company have caused their corporate seal to be affixed hereto, and these presents to be signed by the President of the said Company and the said Minister hath hereunto set his hand and caused these presents to be sealed and countersigned by the Secretary of the Department of Railways and Canals this **fifth day of August, A.D. eighteen hundred and eighty-nine.**

" Signed on behalf of the Company, { " (Sgd) THOS. G. SHAUGHNESSY,
" in presence of " President,
" (Sgd) G. A. D. MACDONALD, { " (Sgd) C. DRINKWATER,
" Secretary,
" (SEAL)

40 " Signed by the Minister and the { " (Sgd) JOHN A. MACDONALD,
" Secretary of Railways and { " Acting Minister of Railways and
" Canals, in presence of { " Canals.
" (Sgd) JOSEPH POPE,
" Witness to the Signature of Sir
" John Macdonald.
" (Sgd) H. A. FISSIAULT, { " (Sgd) A. P. BRADLEY,
" As to Signature of A. P. " Secretary,
" Bradley.
" (SEAL)"

25. On 7th August, 1889, an agreement was entered into by and between the Railway Company and the Canadian Pacific Railway Company whereby it was amongst other things agreed that the Railway Company's lines of railway constructed and to be constructed should be leased to the said the Canadian Pacific Railway Company for the term and subject to the conditions in the said agreement set forth and contained, and under the said agreement the said the Canadian Pacific Railway Company took possession of the Railway Company's lines of railway and under a renewal agreement between the said two Companies the said Canadian Pacific Railway Company is now operating the said Railway Company's said lines of railway.

- 10 26. By an Act of the Parliament of Canada, being 53 Victoria, Chapter 82, and intitled "An Act to confirm an Agreement between the Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamboat Company and the Canadian Pacific Railway Company," the agreement in the last preceding paragraph hereof was approved of, ratified and confirmed and declared to be valid and binding on the parties thereto, and by the same Act the time for the completion of the Railway Company's undertaking was extended to the first day of November, 1892.

27. On the 29th November, 1889, a further Order-in-Council was passed, of which the following is a true copy :

- 20 "Certified Copy of a Report of a Committee of the Honourable
"the Privy Council, approved by His Excellency the
"Governor-General in Council on the **29th November,**
"**1889.**

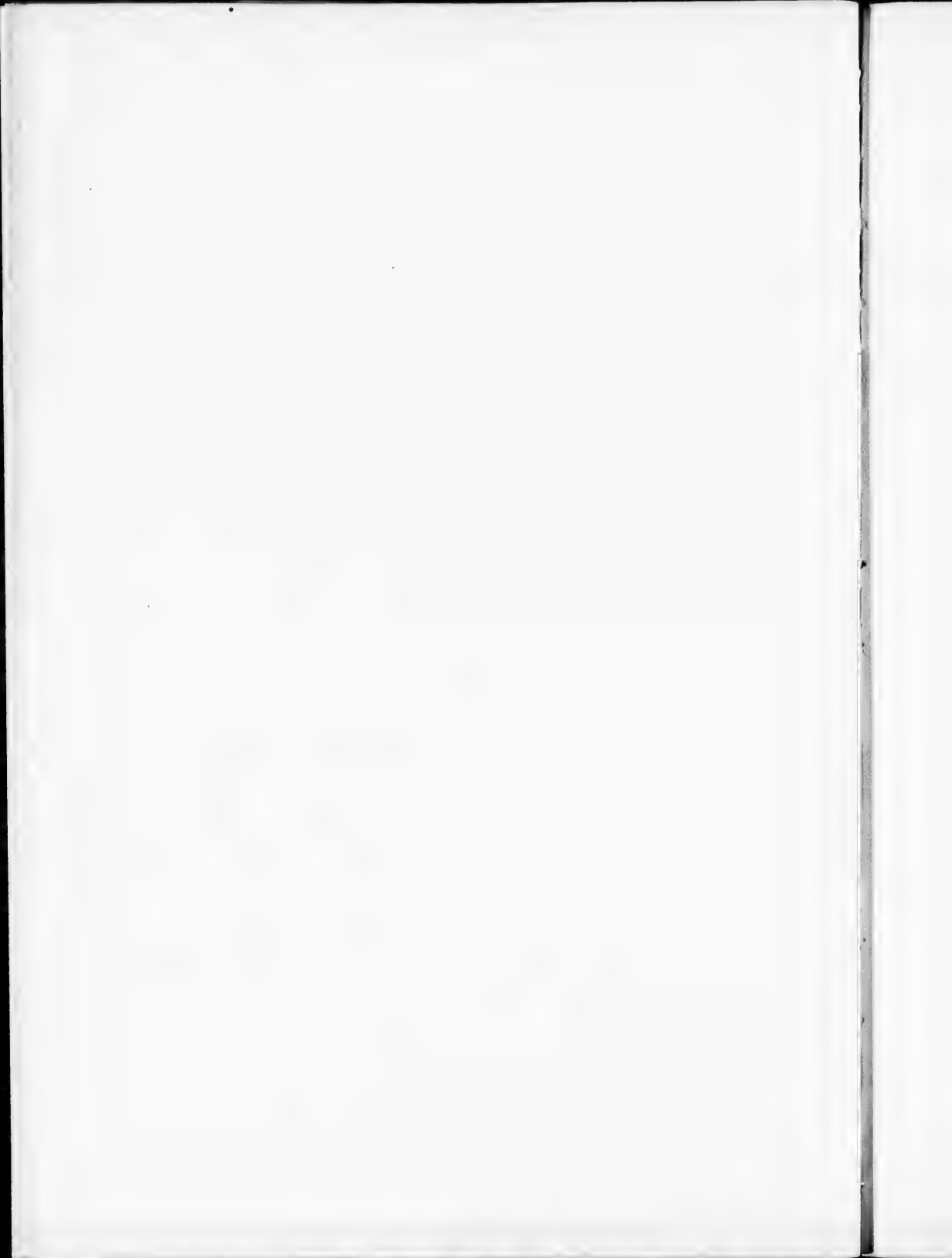
"On a Joint Memorandum, dated 23rd November, 1889, from the Minister of Railways and Canals and the Minister of the Interior, submitting the following observations :

"That on the 30th December, 1884, an Order-in-Council passed constituting a contract with the Qu'Appelle, Long Lake & Saskatchewan Railway Company for subsidizing in land a line from Regina to Long Lake, about 22 miles.

- 30 "Parliament granted the subsidy in 1885, and the road was completed by
"May, 1886, for a distance of 20.10 miles.

"That on the 20th of June, 1887, an Order-in-Council passed constituting the contract of the Department of the Interior with the Company for the subsidizing, also in land, of a continuance of this line from their then terminus (Long Lake) to the Saskatchewan, with branches to Prince Albert and Battleford, about 325 miles. Parliament granted this subsidy in 1887. The specification referred to in this Order-in-Council was inadvertently omitted, but by a further Order-in-Council of the 11th of July, 1888, a specification was adopted.

- 40 "That this Order-in-Council was cancelled by an Order-in-Council dated the
"26th of June, 1889, relating to an agreement for the conveyance of men,
"materials, etc., on completion of the road to Saskatoon. By this Order-in-Council
"also it was laid down that the road should be constructed 'up to the standard
"of the Canadian Pacific Railway in similar country.' The Order-in-Council



"extended the time for completion to the 1st of November, 1890, and if the road be completed up to Saskatoon by that time, then for two years more.

"That by an Order-in-Council of the 10th June, 1889, the time was extended to the 1st of November, 1890, for the completion of the first 50 miles beyond the Long Lake terminus. This, however, was superseded by the arrangement of dates fixed in the Order-in-Council of the 26th of that month.

10 "That the Company have now agreed on an amended and definite specification in place of that fixed by the Order-in-Council of the 26th of June, 1889, 'the standard of the Canadian Pacific Railway,' and it being considered desirable that the usual subsidy contract form of the Railway Department should be adopted in respect of the subsidy granted in 1887, for the continuation of the line to the Saskatchewan. Prince Albert and Battleford, a draft of such contract has been prepared, to which the said specification has been attached and of which it forms part, the dates for completion of the road remaining as fixed by the Order-in-Council of the 26th of June last.

20 "The Ministers, accordingly, jointly recommend that the descriptions, specifications and conditions of the said draft be approved, together with the dates for completion above stated, and that they be authorized to sign the same on behalf of the Government, the same to be in amplification and amendment of the Order-in-Council of the 20th of June, 1887, which at present constitutes the main agreement with the Company in respect of the said subsidy; and they further recommend the cancellation of the Order-in-Council of the 10th of June, 1889, fixing a date for the completion of a portion of the line.

"The Committee submit the above recommendation for your Excellency's approval.

"(Signed) JOHN J. MCGEE,

"Clerk Privy Council.

"To The Honourable

"The Minister of the Interior."

30 28. The agreement referred to in the last mentioned Order-in-Council and which was subsequently duly executed by the Right Honourable Sir John A. Macdonald, the then Acting Minister of Railways and Canals, representing Her Majesty the Queen, acting in respect of the Dominion of Canada, and also by the Railway Company, and which is now in full force and virtue, is in the words and figures following, that is to say:—

"This contract and agreement made the 29th day of November, in the year one thousand eight hundred and eighty-nine;

40 "Between Her Majesty the Queen, acting in respect of the Dominion of Canada, and herein represented by the Right Honourable Sir John A. Macdonald Acting Minister of Railways and Canals, of the first part, and the Qu'Appelle, Long Lake and Saskatchewan Railway and Steamboat Company, of the second part;

"Witnesseth, that whereas it is, in and by an Act passed in the Session of the Parliament of Canada, held in the fiftieth and fifty-first years of Her Majesty's reign, chaptered twenty-three and intituled, 'An Act to authorize the grant of

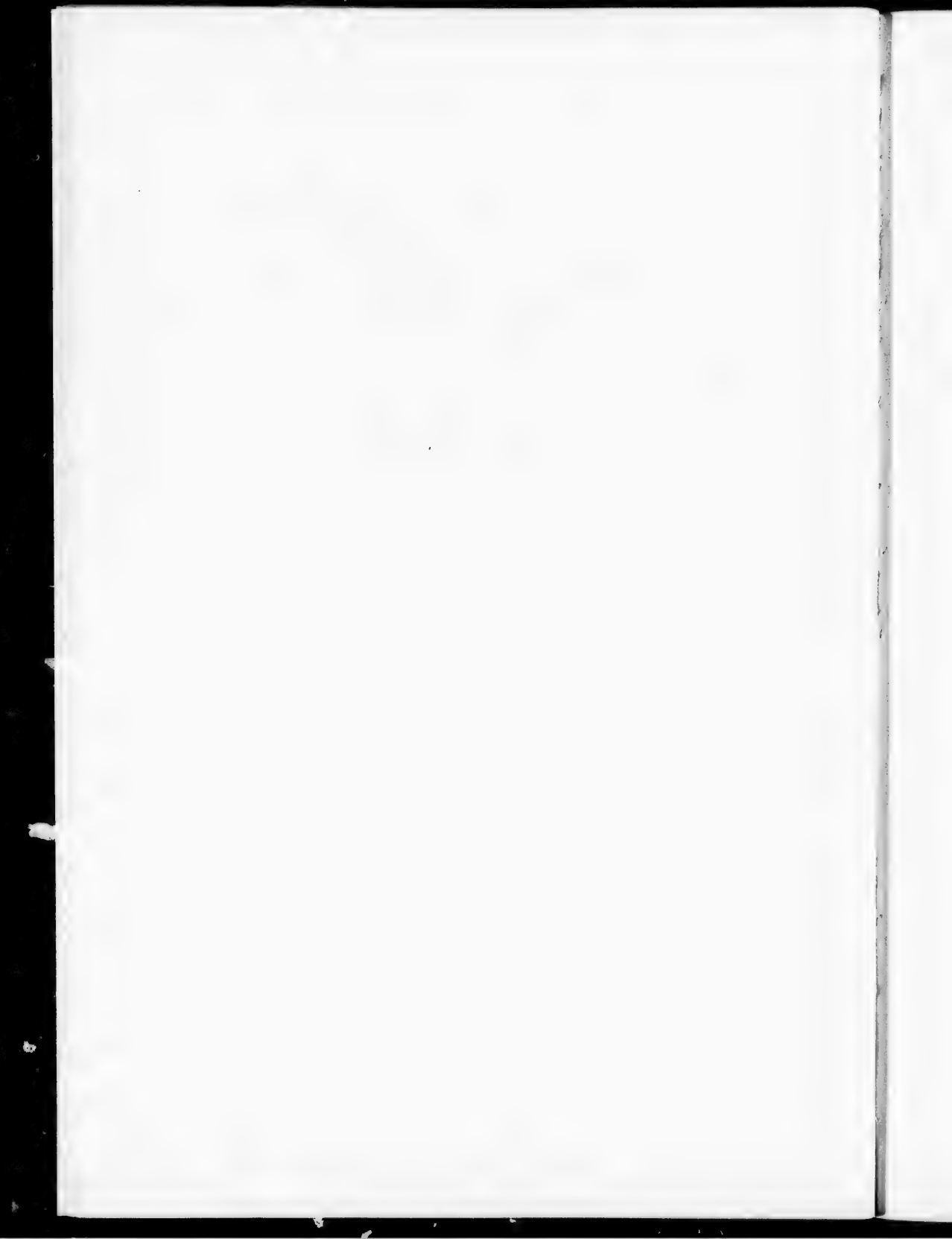
" certain Subsidies in Land, for the construction of the Railways therein named,"
 " amongst other things in effect enacted that :

" The Governor-in-Council may grant to the Qu'Appelle, Long Lake and
 " Saskatchewan Railway and Steamboat Company, Dominion Lands to an extent
 " not exceeding six thousand four hundred acres for each mile of the Company's
 " Railway, from a point near the Northern terminus of the completed portion of
 " that railway, at or near Longlakeon, on the navigable waters of Long Lake, to
 " a point at or near where the fifty-second parallel of latitude crosses the South
 " Saskatchewan River; thence to a point at or near the elbow of the North
 10 " Saskatchewan River, with branches to Prince Albert and Battleford, about
 " three hundred and twenty-five miles,—which grant is by said Act authorized
 " to be made wholly or in part in tracts, each comprising a township or fractional
 " part of a township, as the Governor-in-Council deems expedient, but with
 " certain reservations as to lands to be set apart for the Hudson's Bay Company
 " and for School lands.

" It being thereby enacted that such grant may be so made, in aid of the con-
 " struction of the said railway, in the proportions and upon the conditions fixed
 " by the Orders-in-Council made in respect thereof, subject to any modifications
 " thereof which may thereafter be made by the Governor-in-Council, and that,
 20 " except as to such conditions, the said grant shall be a free grant, subject only to
 " the payment by the Grantees of the cost of survey of the lands and incidental
 " expenses, at the rate of ten cents per acre in cash on the issue of the Patents
 " therefor. That the grant of land so made shall include the statutory allowance
 " for roads between Sections in the townships and fractional parts of townships so
 " granted, but shall be subject to a reserve of one acre out of every one hundred
 " acres, for the establishment of trails and convenient watering places for the
 " purpose of driving and watering cattle; such trails to be for the public benefit,
 " and to be open to the public for use as common highways, and to be set off
 " within two years from the 23rd day of June, 1887, by an officer appointed by
 30 " the Minister of the Interior for that purpose; and that the cost of the survey of
 " such trails shall be borne by the company to which the grant is made.

" And Whereas the Governor-in-Council, on recommendation of the Minister
 " of the Interior, by an Order bearing date the 20th day of June, A.D., 1887, duly
 " approved of the grant subject to the approval of Parliament (which approval
 " was given on the 23rd of June, 1887, by the above recited Act, 50-51 Vic., Cap.
 " 23) of 6,400 acres of land to the said Company for each mile of their railway
 " from the present termination of their road at Long Lake to a point at or near
 " where the 52nd degree of latitude crosses the Saskatchewan, a distance of about
 40 " 130 miles, and from thence to the elbow of the North Saskatchewan, a distance
 " of about 25 miles, with a branch to Prince Albert, a distance of about 85 miles,
 " and also a branch to Battleford, a distance of about 85 miles, making a total
 " distance of about 325 miles, equal to 2,080,000 acres upon the terms and condi-
 " tions following :—

" 1. That the location, gauge and grades of the railway be submitted to and
 " approved by Government, and shall be according to specifications (stated to be
 " thereto attached).



" 2. That the grant to the Company shall consist of lands fairly fit for settlement, and shall be made up out of the unoccupied and unclaimed odd-numbered sections at the disposal of the Government, or out of alternate townships or blocks of land, within ten miles of the line of railway on either side thereof in so far as practicable, without interfering with any previous grants or reserves.

" 3. That any deficiency in the area shall be made up out of any available lands in the North-West Territories in the discretion of the Governor-General in Council.

10 " 4. That the Company shall re-imburse to the Government the cost of survey of the land and incidental expenses, the same to be fixed at ten cents per acre.

" 5. That each *bona fide* settler found on land granted to the Company at the time such is earned, the Minister of the Interior being the judge in the event of any dispute as to his *bona fides*, shall have the right to retain the land occupied by him to the extent of not exceeding 320 acres, on paying the Company therefor at a rate not exceeding in any case \$2.50 per acre, payable one-fourth in cash and one-fourth in each of the three succeeding years, with interest on the unpaid balance at a rate not exceeding six per cent. per annum.

20 " 6. That the Company shall complete, equip and have running fifty miles of the railway, commencing at the termination of the road already completed, within one year from the 20th day of July, 1887, from thence to the crossing of the South Saskatchewan in the following year, and the remainder of the distance by the 20th day of May, 1891.

" 7. That the first grant of 6,400 acres per mile shall be made to the Company on the completion, to the satisfaction of the Government, of the first fifty miles, and after that the grant shall be made from time to time on the completion of each section of ten miles.

30 " 8. That should the Company make default and construct, equip and have running continuously from the Northern terminus of the portion of their railway already built northward, less than 50 miles by the 20th July, 1888, or less than the remaining distances to the crossing of the South Saskatchewan at or near the point mentioned in the charter within the following year, or less than the whole of their railway by the 20th May, 1891, the whole being by the said last mentioned date completely equipped and running, the lands to which they would be entitled which may be unearned at the time they make default shall be absolutely forfeited, and all claim to the same on the part of the Company shall be void.

40 " And Whereas by another Order bearing date the 10th of June, 1888, the Governor in Council, on the recommendation of the Acting Minister of the Interior, has granted to the Company an extension of time for the completion of the fifty miles of their railway commencing at the termination of the portion of the road already completed, to the first day of July, 1889, in lieu of 20th July, 1888, as per Order-in-Council of 20th June, 1887, amended accordingly :

" And Whereas by another Order bearing date the 11th of July, 1888, after

" reciting that through inadvertence the specification of location, gauge and grades
 " of the said railway, referred to in the clause No. 1 of the terms of the Order-in-
 " Council of the 20th June, 1887, did not accompany that Order, the Governor in
 " Council, on the recommendation of the Acting Minister of the Interior, did
 " approve of a certain specification attached to the said Order of 11th July, 1888 :

10

" And Whereas by another Order, bearing date the 10th of June, 1889, the
 " Governor in Council hath approved of the recommendation of the Minister of the
 " Interior, that the time within which the Company shall be required to complete
 " the first fifty miles of their line, beyond the present terminus of the railway at
 " Long Lake, in order to entitle them to the land grant allotted them by Order in
 " Council of 20 June, 1887, and approved by 50-51 Vic., Chapter 23, be extended
 " to the first of November, 1890 :

20

" And Whereas by another Order in Council, dated the 26th day of June,
 " 1889, relating to an agreement for the conveyance of men, materials, Govern-
 " ment supplies, &c., on the completion of the road to Saskatoon, the aforesaid
 " Order in Council of the 11th of July, 1888, was cancelled, and it was, instead,
 " laid down that the road for the purpose of the Land Subsidy and for the said
 " transport agreement should be constructed 'up to the standard of the Canadian
 " ' Pacific Railway in similar country,' the said Order further extended the time
 " for the completion of the whole of the subsidized road to the 1st of November,
 " 1890, and if the road is completed up to Saskatoon by that time, then that the
 " period should be extended for two years more :

30

" And Whereas by another Order, bearing date the 29th day of November,
 " 1889, on the recommendation of the Acting Minister of Railways and Canals,
 " the Governor in Council has duly approved of the substitution of the Specifica-
 " tion hereunto annexed for the Specifications referred to in previous Orders in
 " Council, as the Specification, description and condition for the construction of the
 " said Railway, and of the cancellation of the Order in Council of the 10th of
 " June, 1889 :

" Now this agreement witnesseth, that in consideration of the said land
 " subsidy to be granted in the manner aforesaid, " The Qu'Appelle, Long Lake
 " and Saskatchewan Railway and Steamboat Company " covenants and agrees to
 " and with Her Majesty, Her heirs and Successors, in the manner following, that
 " is to say :—

40

" 1. That the Company shall and will, well, truly and faithfully make, build,
 " construct and complete a line of railway from a point at or near the present
 " termination of the Company's Railway at Long Lake to a point at or near where
 " the 52nd degree of latitude crosses the Saskatchewan River, a distance of about
 " 130 miles, and from thence to the elbow of the North Saskatchewan, a distance
 " of about 25 miles, with a branch to Prince Albert, a distance of about 85 miles,
 " and also a branch to Battleford, a distance of about 85 miles, making a total dis-
 " tance of about 325 miles, the points and approximate route and course being
 " shown on the map filed in the Department of Railways and Canals, and all
 " bridges, culverts and works appurtenant thereto, and will build, construct and
 " complete the said line of Railway, bridges and culverts and perform all engineer-

"ing services, whether in the field, or in preparing plans or doing other office
"works, to the entire satisfaction of the Governor in Council.

" 2. That the Company shall and will locate and construct the said line
"of railway on as straight a course as practicable, between the points above men-
"tioned, with only such deviations as may seem absolutely indispensable to avoid
"serious engineering obstacles, and as shall be allowed by the Governor in Council.

" 3. That the gradients and alignment shall be the best that the physical
"features of the country will admit of, in conformity with the aforesaid specifica-
"tions hereto annexed.

10

" 4. That the Company shall and will furnish profiles, plans and bills of
"quantities of the whole line of railway in ten-mile Sections, and that before the
"work is commenced on any ten-mile Section, such profiles, plans and bills of
"quantities shall be approved by the Governor-in-Council, and before any land
"grants are made, the Company will furnish such further returns as may be
"required to satisfy the Minister of Railways and Canals as to the relative value
"of the works executed with that remaining to be done.

20

" 5. That the said Company having commenced the works embraced in
"this agreement shall complete, equip and have running their said railway as
"follows:—From a point about 19 miles from Regina, on the road already built
"between Regina and Long Lake, up to Saskatoon, on the South Saskatchewan
"River, on or before the first day of November, 1890, and the whole of the said
"railway and branches on or before the first day of November A.D., 1892, time
"being declared to be material and of the essence of this Contract, and in default
"of such completion as aforesaid, on or before the said date or dates, the Company
"shall forfeit all right, claim or demand to any and every part of the subsidy
"remaining unearned, as also to any lands whatever which may be at the time of
"the failure of the completion as aforesaid due and owing to the Company, under
"the provisions of the Act and of the Orders in Council above referred to.

30

" 6. That the Company will, upon and after the completion of the said line
"of railway and works appertaining thereto, truly and faithfully keep the same,
"and the Rolling Stock required therefor, in good sufficient working and running
"order, and shall continuously and faithfully operate the same.

" 7. That the Company will build, construct and complete the said line of
"railway and works appertaining thereto in all respects in accordance with the
"specification hereto annexed, and upon a line of location to be approved of by
"the Governor in Council.

40

" 8. That the granting of the said subsidy shall be subject to such conditions
"for securing such running powers or traffic arrangements and other rights as
"will afford all reasonable facilities and equal mileage rates to all railways
"connecting with the said line of railway as subsidized as the Governor in
"Council may determine.

"9. And that the said line of railway and works appertaining thereto, together with all the franchises, rights, privileges, property, personal and real of every character, shall, upon completion of the said line of railway and works appertaining thereto, be the property of the Company.

"In Witness Whereof, 'The Qu'Appelle, Long Lake and Saskatchewan Railway and Steamboat Company' have caused their corporate seal to be affixed hereto, and these presents to be signed by the President and by the Secretary of the said Company, and the Acting Minister of Railways and Canals hath hereunto set his hand and caused the same to be sealed and countersigned by the Secretary of the Department of Railways and Canals."

10

29. Inasmuch as the Railway Company's railway was duly constructed according to the specifications agreed upon and was duly approved by the Government of Canada your petitioners do not deem it necessary to set forth herein the specifications which formed part of the last mentioned agreement.

30. Orders-in-Council, bearing date respectively, the 14th day of March, the 9th day of April and the 16th day of October, 1890, were passed approving of the various sets of plans and profiles furnished by the Railway Company and of the locations of the various parts of the Railway as the work of location was completed, and the plans, profiles and locations of the Railway have all been approved by the Governor-General in Council as required by the Act subsidizing the Railway.

31. The Railway Company duly completed its said line of railway to Saskatoon and Prince Albert in accordance with its Act of Incorporation and amending Acts, and on the 12th day of October, 1890, all conditions had been fulfilled and all things had happened and all times had elapsed necessary to entitle the Railway Company to the Land Grant provided for in the said Order-in-Council of 20th June, 1887, and in the said agreements.

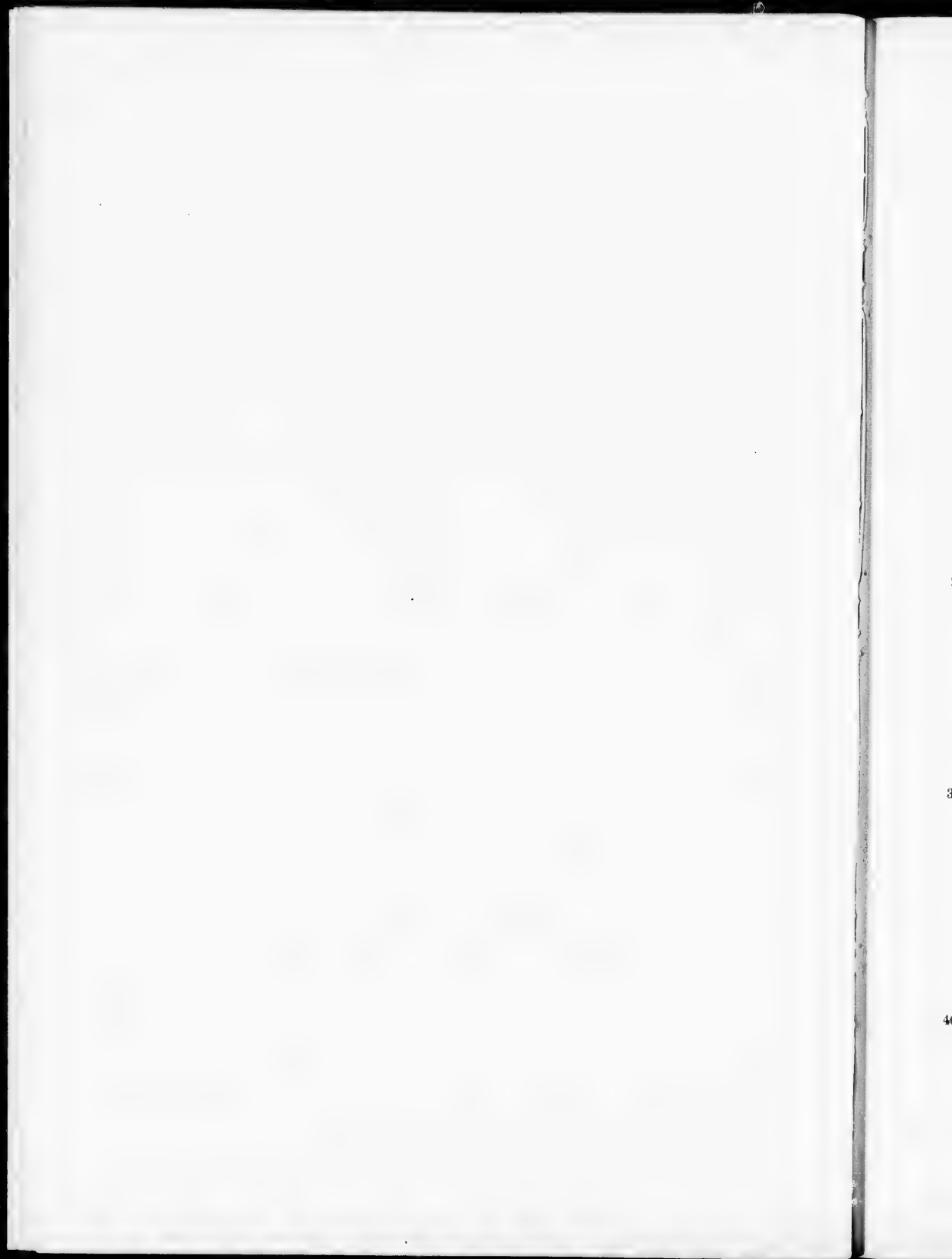
32. On 31st October, 1890, a further Order-in-Council was passed, of which the following is a true copy:—

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"Certified Copy of a Report of a Committee of the Honourable
"the Privy Council, approved by His Excellency the
"Governor-General in Council, on the **31st October,**
"**1890.**

"On a Memorandum dated 24th October, 1890, from the Minister of Railways and Canals, representing that under date the 20th October instant, the Chief Engineer of Government Railways reported on the results of a final inspection made on the 12th October instant of the Qu'Appelle, Long Lake & Saskatchewan Railway (subsidized both in money and lands) showing it to be completed and in excellent running condition and that it is fully in accord with the specifications, a copy of which is hereto attached, being that approved by the Order-in-Council of the 29th of November, 1889, with the exception that at

40



"both Saskatoon and Prince Albert one station house and a water tank have been omitted, and in substitution, a section man's house, separate from the station house, has been erected, also a freight shed, separate from the station house, that this change was made in the interests of traffic, and the Chief Engineer advises that these substitutions should be accepted.

"The Minister, in view of the foregoing report, recommends that the terms of the specifications approved by the Order-in-Council of the 29th of November, 1889, be amended as suggested by the Chief Engineer, and that the 12th of October instant, the date of the inspection of the road, be recognized by the Government as the date from which shall be computed the payment of the money subsidy, amounting to \$80,000 a year for 20 years, authorized by the Act 52 Vic., Cap. 5, for the transport of men, supplies, materials and mails, as to which an agreement was made with the Company on the 5th of August, 1889, it being therein provided that this subsidy should be paid in equal half yearly payments commencing at the six months from the date of completion.

"The Minister recommends that the first payment be made, for the broken period, on the 31st of December, 1890, the following payments being at intervals of six months thereafter as provided by the agreement.

"The Committee submit the above recommendation for Your Excellency's approval.

"(Signed) JOHN J. MCGEE,

Clerk of the Privy Council.

"To the Right Honourable

"The Minister of Railways and Canals."

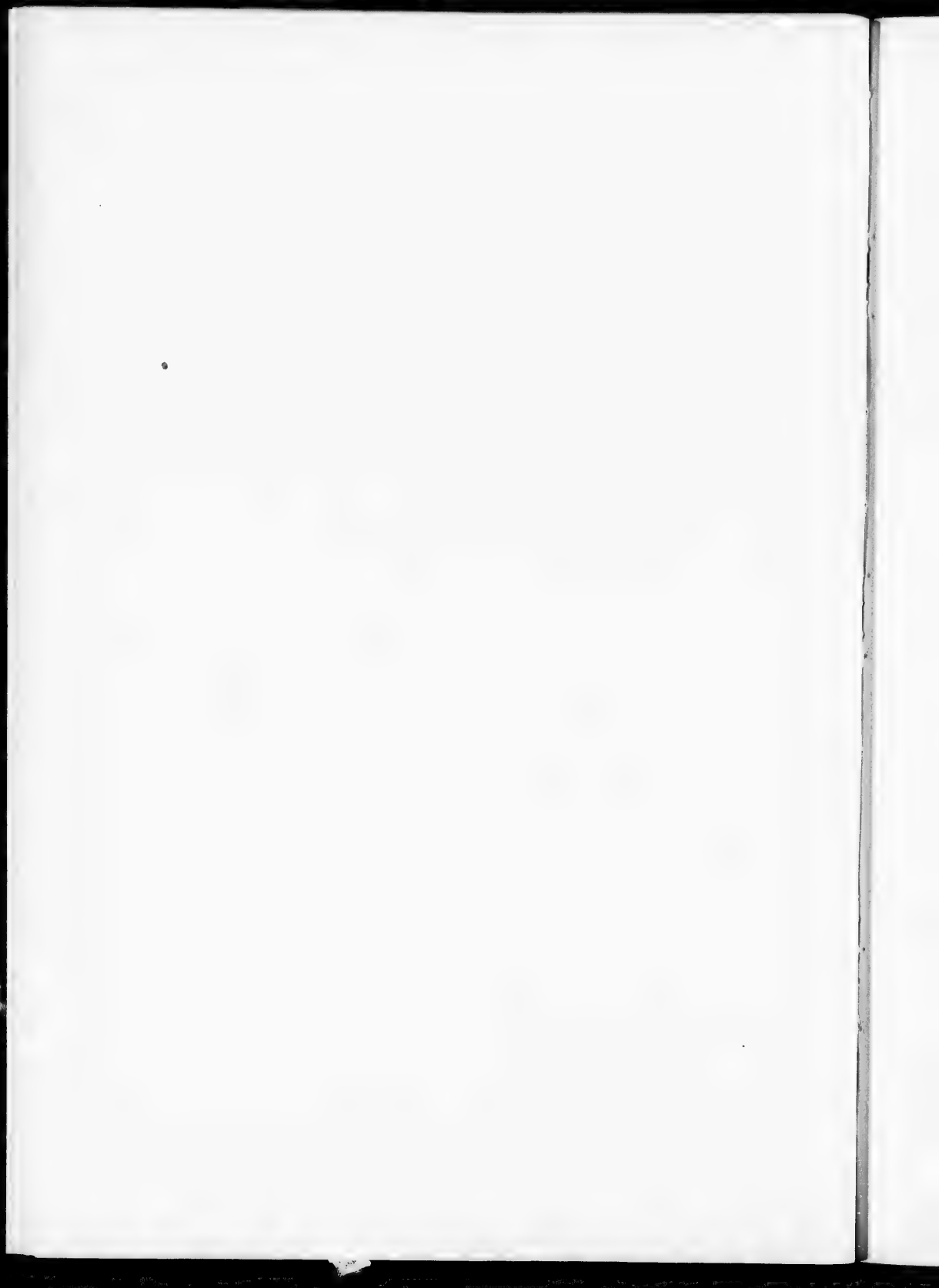
33. The Government of Canada subsequently acted upon the Report of the Chief Engineer of Government Railways, and has since the time named therein, when the Government inspection took place, paid to the Railway Company or to the Assignees of the Railway Company the Government subsidy of \$80,000 a year already referred to, and has admitted the Railway Company's right to its said Land Grant.

30 34. On 7th November, 1890, a further Order-in-Council was passed, of which the following is a true copy :—

"Certified Copy of a Report of a Committee of the Honourable
"the Privy Council, approved by His Excellency the Governor General in Council on the **7th November, 1890.**

"On a Memorandum dated 24th October, 1890, from the Minister of the Interior, stating that he has been notified by the Department of Railways and Canals of the completion of the Qu'Appelle, Long Lake and Saskatchewan Railway from Regina to Prince Albert, a distance of 248 miles.

"The Minister further states that the line is reported to be in excellent running condition, and the provisions of the Order-in-Council of the 20th June, 1887, and amending Orders-in-Council having thus being complied with, the Qu'Appelle, Long Lake & Saskatchewan Railway Company are entitled to



"the land grant of 6,400 acres per mile provided for by the Orders-in-Council mentioned, for the line of 248 miles, being in all about 1,587,200 acres.

"The Committee recommend that the land be granted to the Company accordingly.

"(Signed) JOHN J. McGEE,

"Clerk Privy Council.

"To the Honourable

"The Minister of the Interior."

35. On 28th November, 1890, a further Order-in-Council was passed, of which the following is a true copy:—

"Certified Copy of a Report of a Committee of the Honourable
"the Privy Council, approved by His Excellency the
"Governor-General in Council, on the **28th November,**
"**1890.**

"On a Memorandum dated 24th November, 1890, from the Minister of Railways and Canals, representing that under date the 30th October ultimo, the Chief Engineer of Government Railways reported on plans and profiles submitted by the Qu'Appelle, Long Lake & Saskatchewan Railway Company for approval for subsidy purposes, showing the location of their Railway in and through the town and settlement of Prince Albert, namely, from the North-east quarter of Section 31, Township 47, Range 26 West of the Second Initial Meridian to the Eastern boundary of Lot 78 in the Town of Prince Albert, and the Chief Engineer reports that these plans are in accordance with the Government requirements:

"The Minister recommends that approval be given to the location indicated by the said plans in so far as the question of subsidy is concerned, it being understood that no approval is conveyed relieving the Company from compliance with the requirements of the Railway Act in respect of street crossings or otherwise, as to which, however, it may be observed, that under date the 9th October ultimo, the Company state that they have secured all the property for right of way and station grounds by agreement with the owners, and that the location of the station grounds has the approval of the town authorities.

"The Committee submit the same for Your Excellency's approval.

"(Signed) JOHN J. McGEE,

"Clerk of the Privy Council.

"To the Honourable

"The Minister of the Interior."

36. On the 31st December, 1890, a further Order-in-Council was passed approving of the Railway Company's Toll By-Laws.

40 37. On the 28th January, 1891, a further Order-in-Council was passed, of which the following is a true copy:

"Certified Copy of a Report of a Committee of the Honourable
 "the Privy Council, approved by His Excellency the
 "Governor-General in Council, on the 28th January,
 "1891.

"On a Report dated 21st January, 1891, from the Minister of the
 "Interior, submitting for consideration of Council the following observations in
 "connection with the Qu'Appelle, Long Lake and Saskatchewan Railway
 "Company's land grant:—

10 "That by the Order-in-Council of the 15th November, 1886, the Minister of
 "the Interior was authorized to convey to the Company the lands to which they
 "were entitled as a subsidy in consideration of their having completed the con-
 "struction of 20 miles of their line from Regina in the direction of Long Lake.
 "In view of this fact, the Minister submits that the Order-in-Council of the 7th of
 "November last, authorizing a land grant of 6,400 acres per mile for the whole
 "length of the line from Regina to Prince Albert, is liable to misconstruction, and
 "he recommends accordingly that it be cancelled.

20 "The Minister further submits that the length of the line constructed under
 "the contract made between the Government and the Company, the draft of which
 "was approved by the Order-in-Council of the 29th November, 1889, from the
 "point of departure from the original line connecting Regina with Long Lake, is
 "certified by the Department of Railways to be 228.71 miles, which mileage the
 "Chief Engineer of Government Railways reports is completed, equipped and in
 "excellent running condition. Under the provisions of the Order-in-Council of
 "the 20th June, 1887, and amending Orders-in-Council, the Company are entitled
 "to a land grant at the rate of 6,400 acres per mile for this distance, being in all
 "1,463,744 acres.

30 "The Minister reports further that he is informed and has reason to believe
 "that in addition to the 20 miles which formed the subject of the Order-in-Council
 "of the 15th November, 1886, 3.12 miles of the original line connecting Regina
 "with the navigable waters of Long Lake have been completed and in running
 "order for several years, and he recommends that he be authorized, upon receipt
 "of the usual report from the Chief Engineer of Government Railways certifying
 "this to be the fact, to convey to the Company the land grant applicable to this
 "portion of their line at the rate of 6,400 acres per mile; and finally he is
 "informed that the Company have extended their railway for 2½ miles beyond
 "the point at Prince Albert, which was reached when the inspection was made,
 "on the strength of which the mileage referred to in the Order-in-Council of the
 "7th November last was fixed, and he also recommends that in this case he be
 "authorized, when he has received the necessary certificate from the Chief
 40 "Engineer of Government Railways, to convey to the Company the land grant
 "applicable to this extension, at the rate of 6,400 acres per mile.

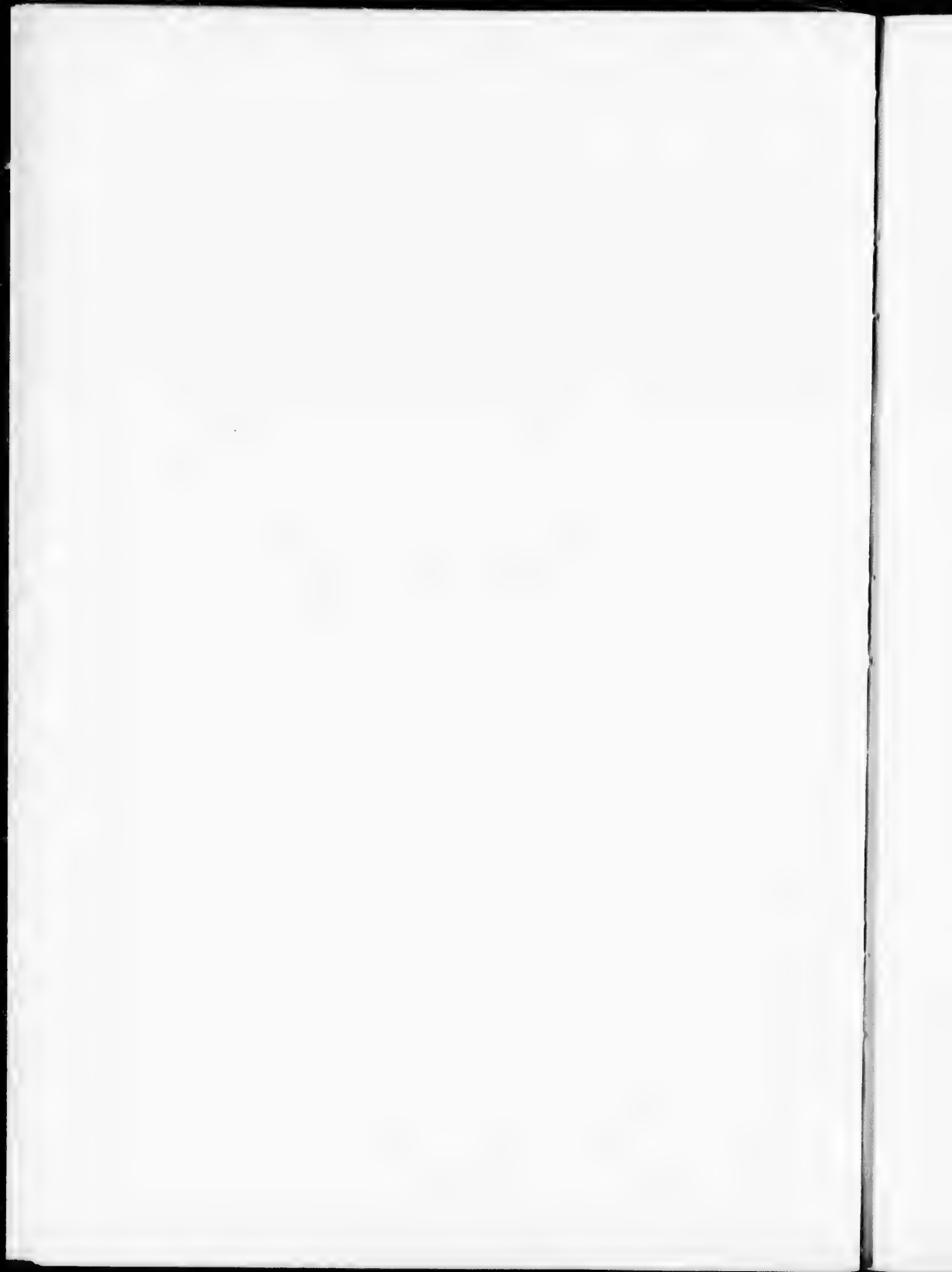
"The Committee submit the above recommendation for Your Excellency's
 "approval.

"(Signed) JOSEPH POPE,

"Assistant Clerk Privy Council.

"To the Honourable

"The Minister of the Interior."



38 On 4th February, 1891, a further Order-in-Council was passed, of which the following is a true copy

" Certified Copy of a Report of a Committee of the Honourable the
" Privy Council, approved by His Excellency the Gover-
" nor-General in Council, on the **4th February, 1891.**

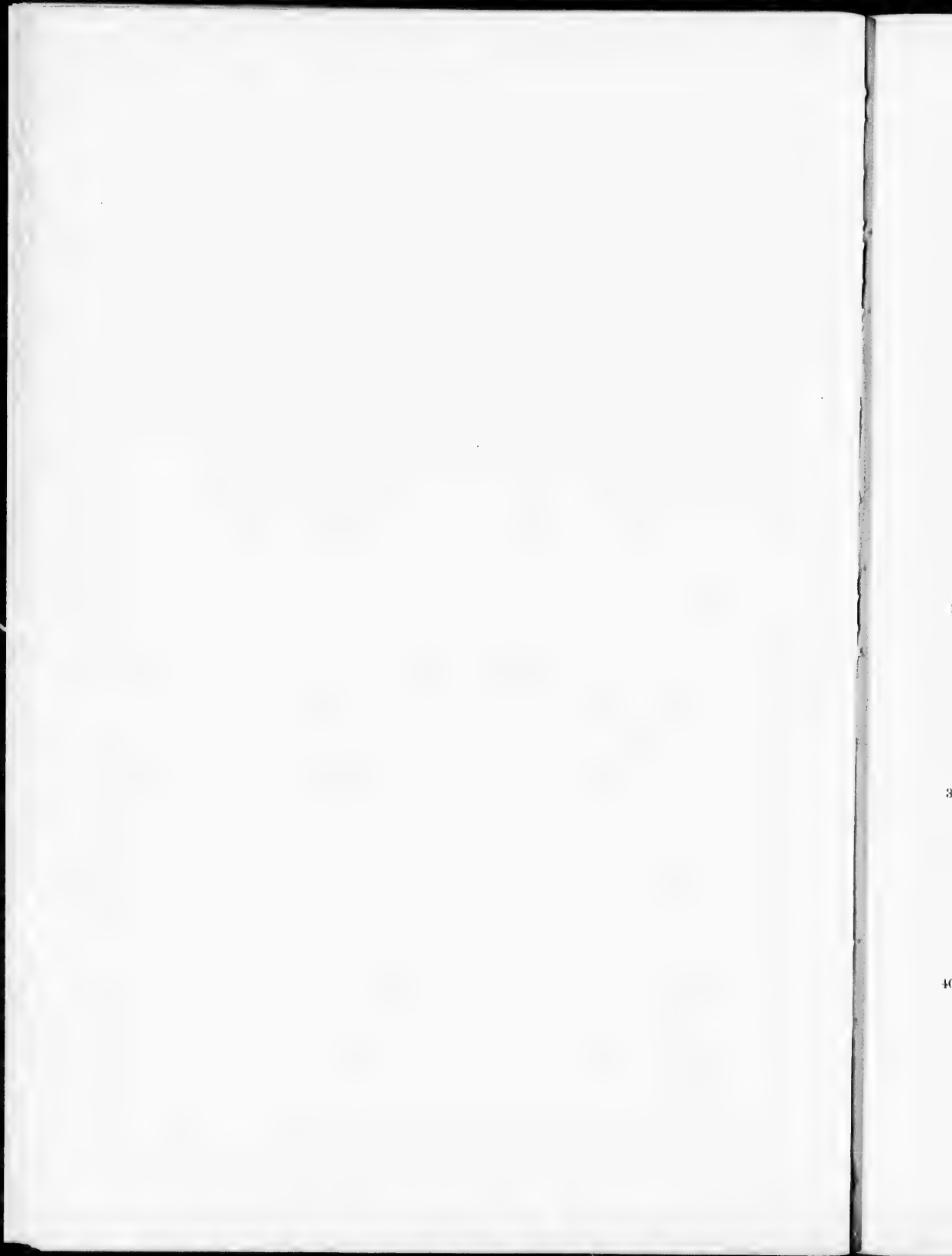
10 " On a Report dated 2nd February, 1891, from the Minister of the Interior,
" submitting that the Qu'Appelle, Long Lake and Saskatchewan Railway and
" Steamboat Company having completed their line from Regina to Prince Albert,
" and the same having been in active operation for several months, have made
" application to the Minister of the Interior to designate the lands which shall be
" granted to the Company as a subsidy in aid of the construction of the road at
" the rate of 6,400 acres per mile, as provided in the Agreement between the Com-
" pany and the Government in that behalf

" The Minister states that for the construction of the first 20 miles of the road
" from Regina towards Long Lake provision was made by the Order-in-Council
" of the 30th December, 1884, that the 128,000 acres applicable thereto should be
" selected from the odd-numbered sections at the disposal of the Government in
" the following Townships which were, by the said Order-in-Council, set apart
" and reserved for that purpose, namely

20 " Fractional Township 26, the Eastern third of Township 27, and that part of
" Township 21 North of the Canadian Pacific Railway Belt and South of Long
" Lake, in Range 22, that part of Township 21 North of the Canadian Pacific
" Railway Belt, those parts of Townships 22 and 23 West of Long Lake, and the
" East half of Township 26, in Range 23, Townships 21, 22, 23, 24, 27, 29, and
" that part of Township 26 West of Long Lake, in Range 24, Townships 22, 23,
" 26, 27, 28 and 29, in Range 25, Townships 24, 25, 26, 27, 28 and 29, in Range
" 26, and Townships 25, 26, 27 and 28, in Range 27, all West of the Second Meri-
" dian

30 " The Minister further states that for the remainder of the length of the
" Company's line 234.33 miles, the Company would be entitled to a grant of
" 1,499,712 acres, and for the purpose of making up to the Company the grant to
" which they were entitled by construction up to that date he, on the 7th of
" January, 1890, reserved and set apart by Departmental Order certain lands
" named in the Schedule hereto attached marked A, containing an area in odd-
" numbered Sections amounting to 1,010,310 acres which Schedule, however,
" includes the 128,000 acres to which the Company were entitled under the pro-
" visions of the Order in Council of the 30th December, 1884, hereinbefore alluded
" to) which reservation he (the Minister, recommends be confirmed by Your
" Excellency in Council

40 " The Minister observes that, assuming the whole of the area thus scheduled
" to be fairly fit for settlement and otherwise available for the purposes of the
" land subsidy of this railway, there would still be 489,402 acres to be found to
" make up to the Company the full area of their subsidy, and to partially cover
" this, he has caused to be reserved and set aside Departmentally all the lands



" bounded on the North, East and West by the North and South branches of the
 " Saskatchewan River and on the South by the belt of the projected branch line
 " of the Canadian Pacific Railway running along the North Saskatchewan, for
 " which provision is made in the Agreement between the Government and the
 " Company dated the 7th day of January, 1891, the approximate position of which
 " line is shown upon the map hereto attached marked B. This tract contains an
 " area approximately of 386,721 acres of odd-numbered Sections of land at the
 " disposal of the Government, which are more particularly described in the Schedule
 " hereto attached marked C, and the reservation of the said lands, for the purposes
 10 " of the land grant of the Qu'Appelle, Long Lake and Saskatchewan Railway and
 " Steamboat Company, he recommends for the approval of Your Excellency in
 " Council.

" The Minister states that there will be thus available for the purposes of
 " this Company's land subsidy :—

" Lands contained in Schedule A, less 128,000 acres provided " for by Order-in-Council of the 30th December, 1884	882,310 acres
" Lands described in Schedule C	386,721 "
" Total	1,269,031 "

20 " The Minister observes further that the Company have already earned by
 " construction 230,681 acres in excess of this area, 35,968 acres of which, applic-
 " able to 5.62 miles of railway, are still subject to the certificate of the Chief
 " Engineer of Railways that the 5.62 miles are completed. Since, however, by
 " virtue of the agreement between the Company and the Government dated the
 " 5th of August, 1889, provision is made for the retention of one third of the Com-
 " pany's land grant to be held by the Government as a first charge or lien secur-
 " ing the repayment of any deficiency in the amount earned by the Company in
 " any year for the services provided for by the contract in question, he is of
 " opinion that the present requirements of the Company in regard to their land
 " grant will be sufficiently fulfilled if the lands mentioned in the two Schedules here-
 30 " to attached, marked A and C, are reserved and set apart to be granted to the
 " Company under the Order-in-Council and Agreements having reference to the
 " Company's land subsidy which are now in force and effect.

" The Committee submit the above recommendation for Your Excellency's
 " approval.

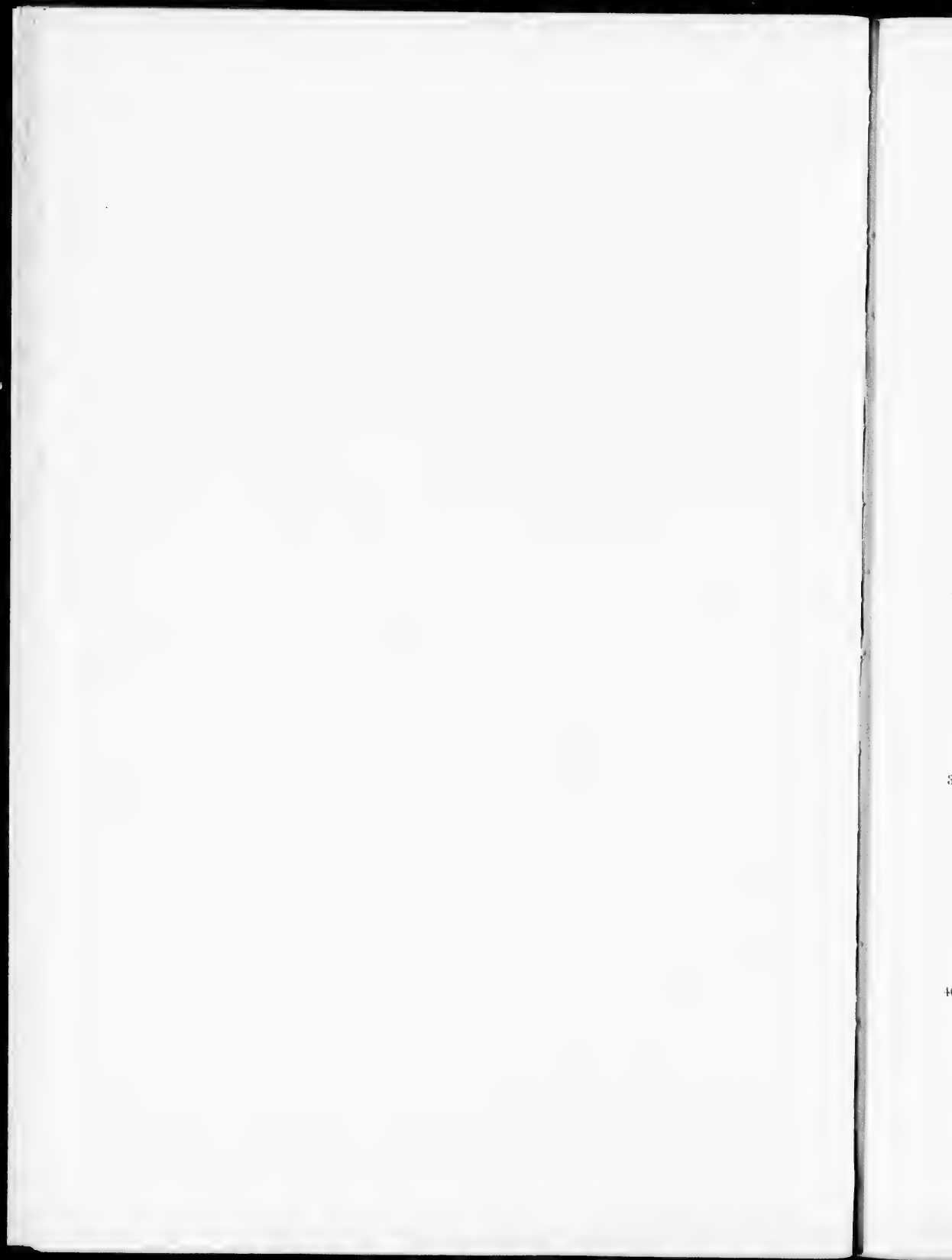
" (Signed) JOHN J. McGEE,

" Clerk Privy Council.

" To the Honourable
 The Minister of the Interior."

For greater particularity your petitioners crave leave to refer at the hearing of this
 40 petition to the Schedules A, B and C forming part of the above Order-in-Council

39 On 13th April, 1891, a further Order-in-Council was passed, of which the
 following is a true copy :—



" Certified Copy of a Report of a Committee of the Honourable
 " the Privy Council, approved by His Excellency the
 " Governor-General in Council, on the 13th April, 1891.

" On a Report dated 11th March, 1891, from the Minister of the Interior
 " stating that by the terms of the Agreement of the 7th January, 1891, entered
 " into between the Canadian Pacific Railway and the Government, under authority
 " of Your Excellency in Council, for the purpose of defining the lands to be
 " reserved out of which the balance of the land grant of the said Company is to be
 " selected after the available lands in the Railway Belt have been exhausted, a
 10 " branch line of railway to Battleford was provided for, and the belt along this
 " branch line for which provision was made in the Agreement may be more par-
 " ticularly described as follows:—

" Twelve miles on each side of a right line drawn from the South-west angle
 " of Township 35, Range 4 West of the Third Meridian, in the Dominion Lands
 " system of surveys, to the North-West angle of Township 43, Range 16 West of
 " the Third Meridian, at or near Battleford.

" The Minister observes that by an Order-in-Council dated 4th February,
 " 1891, the land grant for the Qu'Appelle, Long Lake and Saskatchewan Railway
 " and Steamboat Company was set apart and embraced within two Schedules
 20 " called respectively A and C. The Schedule C embraced all the lands bounded
 " on the North, East and West by the North and South branches of the Saskatch-
 " ewan River and on the South by the Northern boundary of the belt of the
 " branch line to Battleford of the Canadian Pacific Railway, wherever that might
 " be, the belt at that time not having been defined. On the 18th of February last,
 " the date on which the Northern limit of this belt was finally determined, it was
 " found that the following lands embraced within the said Schedule C accompany-
 " ing the Order-in-Council of the 4th of February last would fall within the limits
 " of the belt of the branch line of the Canadian Pacific Railway and would there-
 " fore require to be withdrawn from the said Schedule C and freed from the
 30 " provisions of the said Order-in-Council of the 4th February last:

" All Township 37, Range 6, West Third Meridian . . 10,033.64 acres.

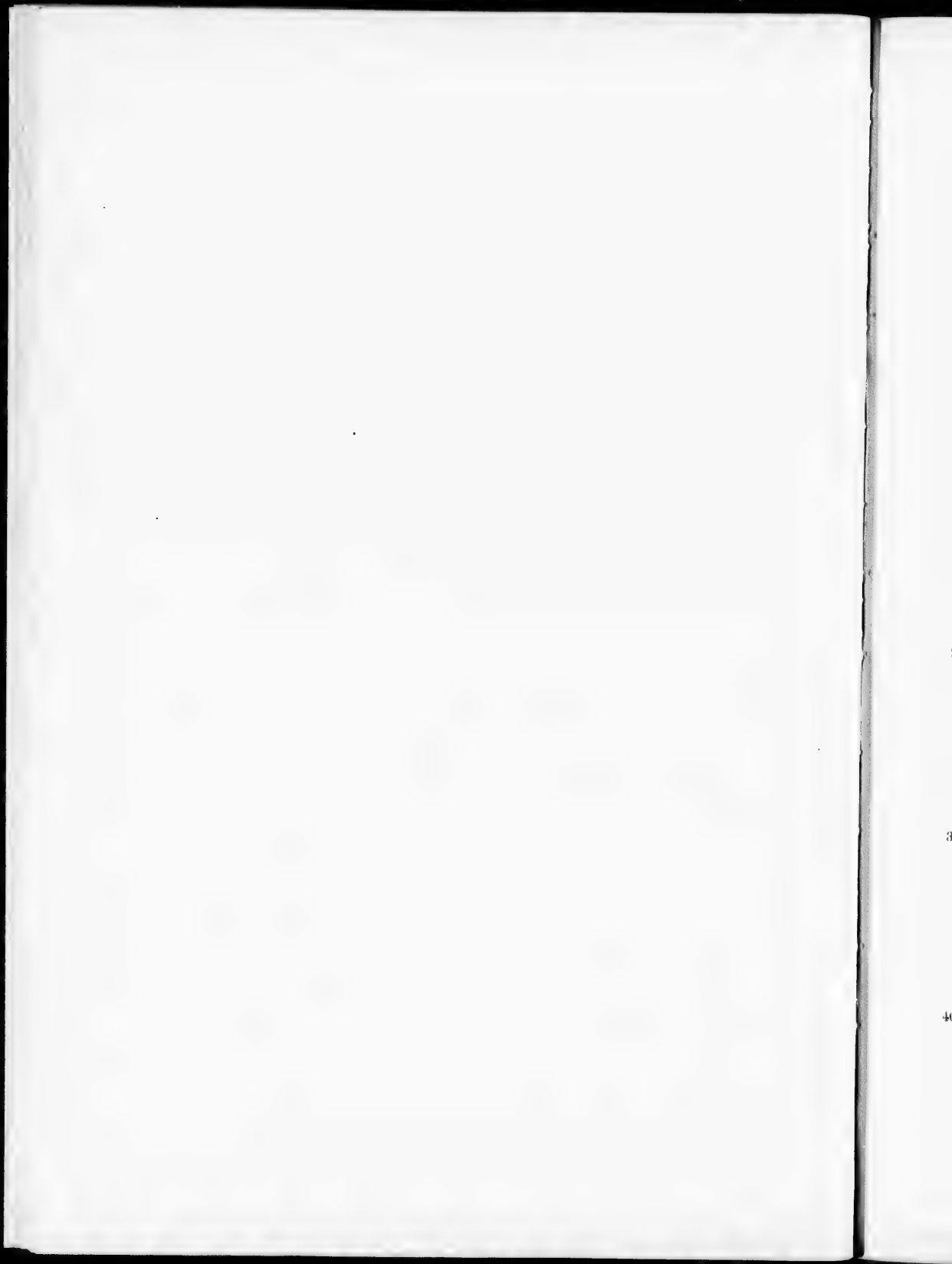
" All Township 38, Range 7, West Third Meridian . . 10,225.62 "

" Fr. Township 38, Range 6, West Third Meridian . . 7,024.52 "

" Fr. Township 39, Range 7, West Third Meridian . . 5,113.32 "

32,417.10 acres.

" The Minister therefore recommends that the lands above enumerated be
 " withdrawn from the Schedule C of the Order-in-Council of the 4th February,
 " 1891, and from the provisions of the said Order and be incorporated in the lands
 " to be reserved for the purpose of the land grant of the Canadian Pacific Rail-
 40 " way, and that the Northern limit of the belt of the said line as shown in 'pink'
 " on the accompanying diagrams be approved and confirmed, the same being in
 " accordance with the requirements of the Agreement dated 7th January, 1891,
 " entered into between the Government and the Canadian Pacific Railway Com-



"pany under the authority of Your Excellency in Council, as hereinbefore related.

"The Committee submit the same for Your Excellency's approval.

"(Signed) JOHN J. MCGEE,
"Clerk Privy Council.

"To the Honourable
"the Minister of the Interior."

40. On the 30th April, 1892, a further Order-in Council was passed, of which the following is a true copy :

10 "Certified Copy of a Report of a Committee of the Honourable
"the Privy Council, approved by His Excellency the
"Governor-General in Council, on the 30th April. 1892.

"On a Report dated 16th of April, 1892, from the Minister of the Interior,
"stating that by an Order-in-Council dated 4th April, 1891, certain lands in the
"Prince Albert district embraced within a belt twelve miles wide on either side
"of the line, were set apart for the purposes of the land grant to the Manitoba
"and North-Western Railway Company, and that by a previous Order-in-Council
"dated 4th February, 1891, an area of 1,269,031 acres of land were set apart for the
"purposes of the land grant to the Qu'Appelle, Long Lake & Saskatchewan
20 "Railway Company.

"The Minister further states that an examination of the lands set apart for the
"purposes of the last mentioned Company's grant proved that a considerable
"proportion of the odd-numbered sections within the tract could not be classified
"as 'fairly fit for settlement,' and with a view to make up the area of the grant
"due to the Company it has become necessary to make a further reservation.

"The Minister further states that it has also been intimated to him by the
"Manitoba and North-Western Railway Company that the portion of their
"line between Yorkton and Prince Albert will be located further North than was
30 "anticipated at the time of the passage of the Order-in-Council of the 4th April,
"1891, hereinbefore referred to, and consequently some of the lands reserved would
"not fall within a belt of twelve miles wide on either side of the line. Mr. F.
"Brydges, the Vice-President of the Railway, has by letter designated certain
"lands within the Company's existing reserves which they are willing to
"surrender, and accept other lands in the Birch Hills and Carrot River districts
"in lieu thereof.

"The Minister, as the lands proposed to be surrendered are contiguous to the
"reservation of the Qu'Appelle, Long Lake and Saskatchewan Railway, and
"would become available on being withdrawn from the existing reservation for
40 "the purposes of the land grant to that Company, submits herewith a map on
"which coloured in 'red' are shown the lands which the Manitoba and North-
"Western Railway Company offer to surrender, and in 'blue' the lands, the odd-
"numbered sections in which they propose shall be reserved in lieu thereof, and

"he recommends that the proposition of Mr. Brydges receive the approval of Your Excellency in Council.

"The Committee submit the above recommendation for Your Excellency's approval.

"(Signed) JOHN J. MCGEE,

"Clerk of the Privy Council.

"To the Honourable

"The Minister of the Interior."

41. For greater particularity your Petitioners crave leave to refer at the hearing of this Petition to the Map referred to in the last mentioned Order-in-Council.

42. On 10th June, 1892, a further Order-in-Council was passed, of which the following is a true Copy:—

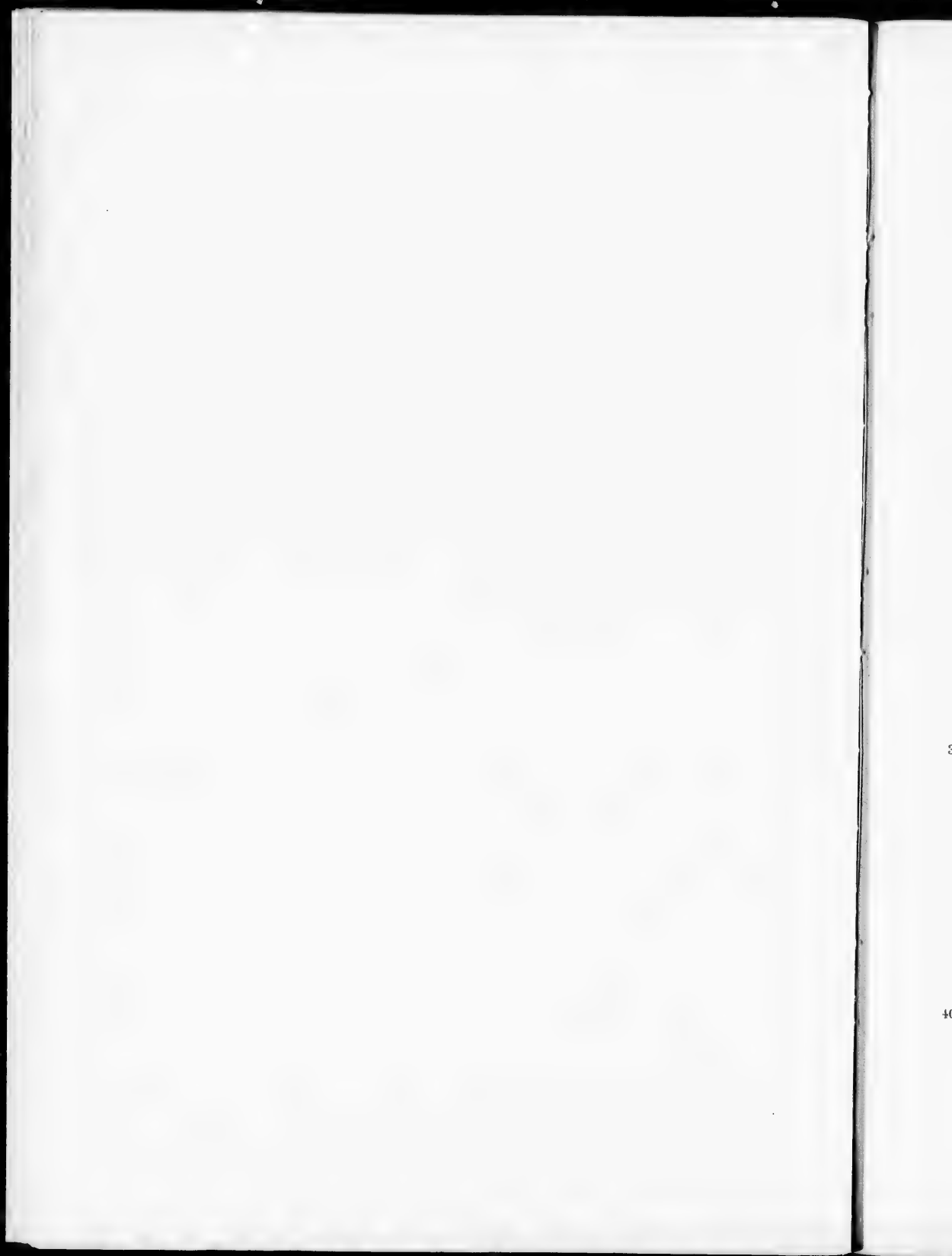
"Certified Copy of a Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 10th June, 1892.

"On a Report dated 8th April, 1892, from the Minister of the Interior, stating that by an Order-in-Council dated 4th February, 1891, an area of 1,269,031 acres of land was set apart out of which 'The Qu'Appelle, Long Lake and Saskatchewan Railway Company' were to select a portion of their land grant of 1,499,712 acres to which they are entitled, at the rate of 6,400 acres per mile, for the 234.33 miles of railway constructed, being exclusive of the first 20 miles of road, the subsidy for which is otherwise provided for by the Company and certified to by the Chief Engineer of Government Railways. On an examination of these lands being made by the Company, during the season of 1891, the Company state that a considerable area of the available odd-numbered sections was found not to come within the class of lands 'fairly fit for settlement,' and in order to make up the area due the Railway Company it has become necessary to make a further reservation.

"The Minister further states that in a letter dated the 24th March, 1892, addressed to him by Messrs. Osler, Hammond & Nanton, acting for the Railway Company, they requested that certain tracts of land designated by them should be reserved for the purposes of the selection of their land grant.

"The Minister submits herewith a map on which are shown coloured 'pink,' and marked A, B and C, the tracts of land so applied for. By an Order-in-Council dated 4th April, 1891, the lands embraced within tract B on the map were reserved for the purposes of the selection of the land grant to the Manitoba and North Western Railway, but Mr. F. Brydges, representing that Company, has written expressing the willingness of his Company to surrender the tract B and accept other lands in the Birch Hills and Carrot River Districts in lieu thereof.

"The Minister therefore recommends that the odd-numbered sections at the disposal of the Government within the tracts marked A and B, containing an



"approximate area of 1,034,240 acres, be reserved and set apart for the purposes of the selection of the land grant to the Qu'Appelle, Long Lake and Saskatchewan Railway Company. In regard to tract C, containing an approximate area of 440,320 acres, the Minister submits that a reference to the map shows that it lies adjacent to the south limit of the twelve mile belt of the assumed line of the Great North-West Central Railway, but that Company up to the present time have furnished no plans showing definitely the final location of their road. In view of this circumstance, and of the fact that the Qu'Appelle, Long Lake and Saskatchewan Railway is actually constructed and running through to Prince Albert, he (the Minister) recommends that the odd-numbered sections at the disposal of the Government, in the tract marked C on the map, be set apart and reserved for the purposes of the selection of the land grant of the Qu'Appelle, Long Lake and Saskatchewan Railway Company.

10

"The Minister also recommends (in view of the fact that the Great North-West Central Railway Company by the terms of their Charter are entitled to all the odd-numbered sections at the disposal of the Government within a belt of 12 miles wide on either side of the line of their railway) that should the final location of that line be found to fall further South than at present shown upon the map, then the Qu'Appelle, Long Lake and Saskatchewan Railway Company shall surrender to the Government for the purposes of the land grant to the Great North-West Central Railway all the odd-numbered sections in tract C falling within the southerly limit of the said twelve mile belt, excepting only such odd sections as the Qu'Appelle, Long Lake and Saskatchewan Railway-Company may have sold or received patent for at that time.

20

"The Committee submit the above recommendation for Your Excellency's approval.

"(Signed) JOHN J. MCGEE.

"*Clerk of the Privy Council.*

"*To the Honourable*

30

"*The Minister of the Interior.*"

43. For greater particularity your Petitioners crave leave to refer at the Hearing of this Petition to the Map referred to in the last mentioned Order-in-Council.

44. On 29th September, 1892, a further Order-in-Council was passed, of which the following is a true copy :-

"Certified Copy of a Report of a Committee of the Honourable
"the Privy Council, approved by His Excellency the
"Governor-General in Council, on the **29th September,**
"**1892.**

40

"On a Report dated 24th September, 1892, from the Minister of the Interior,
"stating that by an Order-in-Council dated 10th June last, the total length of
"line upon which the Qu'Appelle, Long Lake & Saskatchewan Railway &
"Steamboat Company were entitled to a land grant was 254.33 miles and that on

"the 26th July last the Chief Engineer of Government Railways reports, that by
 "an actual re-measurement of the line made upon the ground, the total length is
 "found to be only 253.96 miles.

"The Minister therefore recommends that the Order-in-Council of the 10th of
 "June last be amended, and that the total length of line upon which the
 "Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company
 "shall be entitled to draw their land grant at the rate of 6,400 acres per mile, be
 "fixed at 253.96 miles in accordance with the certificate of the Chief Engineer of
 "Government Railways.

10 "The Committee submit the above recommendation for Your Excellency's
 "approval.

"(Signed) JOSEPH POPE,

"Assistant Clerk of the Privy Council.

"To the Honourable

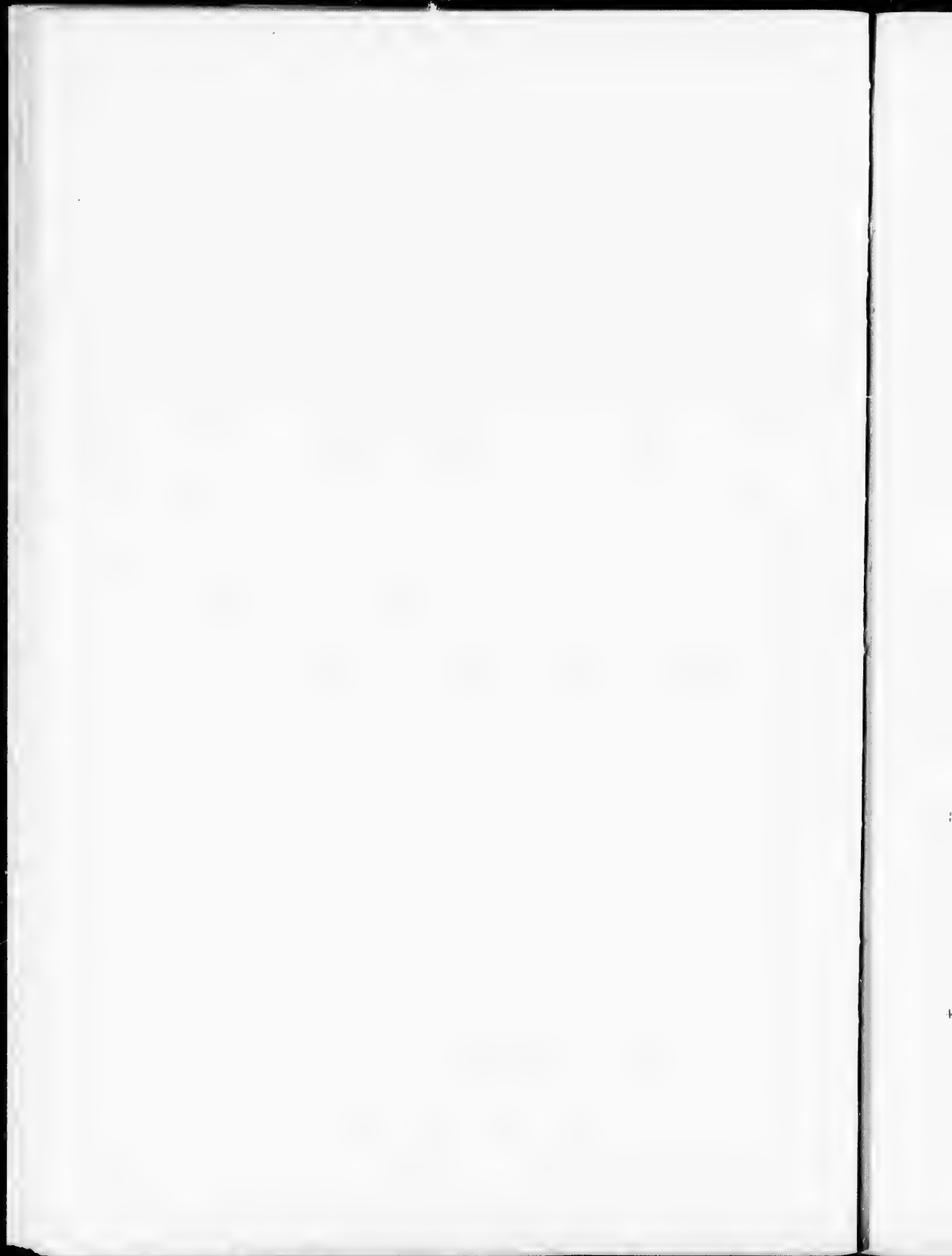
"The Minister of the Interior."

45. Your Petitioners accept the mileage certified to by the Chief Engineer of
 Government Railways as set forth in the last mentioned Order-in-Council, to wit: 253.96
 miles, and they say that your Petitioners the Railway Company became entitled on 12th
 October, 1890, to receive from the Government of Canada 1,497,344 acres of land fairly
 20 fit for settlement in addition to 128,000 acres of land which had already been received in
 respect of the first 20 miles of the said Railway.

46. Under the agreement above set forth, bearing date the 5th day of August, 1889,
 the Government is entitled, as the land grant of the Railway Company is earned from
 time to time, to retain one-third of such land grant as security for any deficiency that
 may arise in respect of the annual subsidy of \$80,000 therein referred to, and the work
 to be done by the Railway Company as provided for in the said agreement, so that
 although the Railway had, on or before the 12th day of October, 1890 (when the Rail-
 way was inspected and approved of by the Government Engineer), earned its land grant
 of 1,497,344 acres exclusive of the 128,000 acres previously received, yet the Government
 30 was and is entitled to retain 499,114 acres thereof as such security as aforesaid.

47. A further term of the said agreement of 5th August, 1889, is that as the land
 grant of the Railway Company is earned from time to time, the Government shall issue
 to the Railway Company Patents for two-thirds of the lands so earned, being the whole
 of the land grant so earned less the one-third thereof which the Government is entitled
 to retain as aforesaid, and on and prior to the said 12th day of October, 1890, the Rail-
 way Company was entitled to receive, and it or its assignees still are entitled to receive
 from the Government of Canada Patents for 998,230 acres of land fairly fit for settle-
 ment, and exclusive of the 128,000 acres already received as aforesaid; but they have
 not nor has any or either of them received the same, except as is hereinafter set forth.
 40 and the Government is in default in respect thereof.

48. Pursuant to the powers contained in the said agreement of 5th August, 1889,
 and shortly after the same was executed, the Railway Company assigned the said half



yearly payments composing the 26 yearly payments of \$80,000 each to Trustees by way of security for the bonded debt of the Railway Company, and the Government has since such payments became payable, been paying and still continues to pay, such sums directly to such Trustees for the benefit of the holders of the Company's bonds.

49. The tracts of land set apart as aforesaid by Orders-in-Council dated 4th Feb., 1891, 30th April, 1892, and 10th June, 1892, for selection by the Railway Company therefrom of its land grant were in due course and at very considerable expense carefully examined by Inspectors of the Railway Company, for the purpose of ascertaining what portions of such tracts (if any) consisted of land fairly fit for settlement within the
10 meaning of the aforesaid agreements between the Railway Company and the Government.

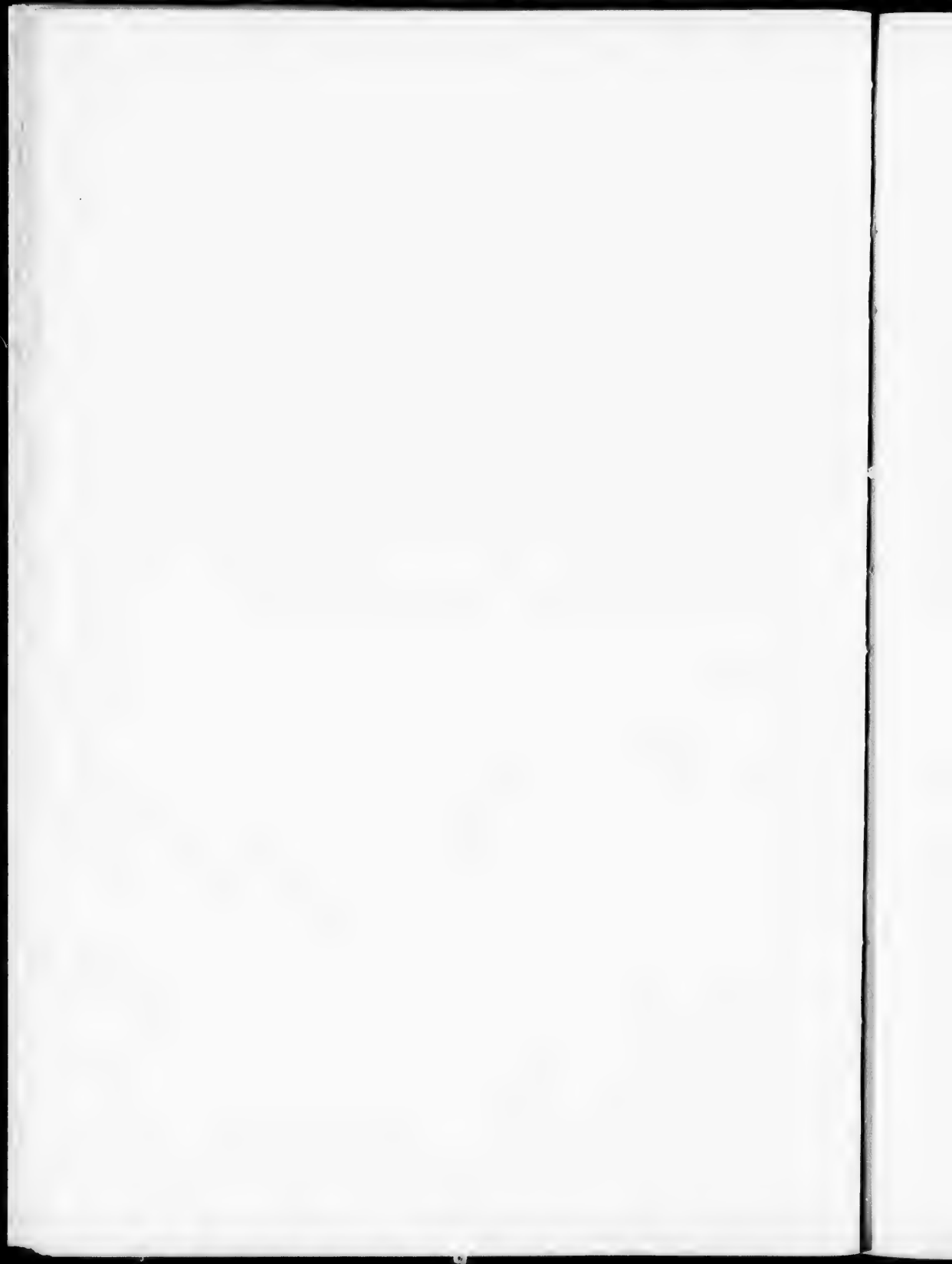
50. One of the results of such examination was to satisfy the Railway Company, as the Petitioners now allege the fact to be, that the said tracts as a whole consisted of land not fairly fit for settlement, that a portion of the good lands therein had already been disposed of by the Government, that a portion thereof was claimed by the Canadian Pacific Railway Company, and that a comparatively small portion consisted of lands which the Railway Company could be called upon to accept.

51. From the lands set apart by the Government for the selection by the Railway Company of its land grant, the Railway Company has selected and has applied to the
20 Government for 224,336.94 acres (Patents for a portion of which have been issued), leaving 773,893.4 acres to be still supplied by the Government (over and above the one-third which the Government may retain as aforesaid) in order to fulfil its contract with the Railway Company.

52. Immediately after the close of such examinations the Railway Company gave notice to the Government of the fact that the lands to which it was entitled could not be obtained from the tracts so set apart except to the extent lastly above mentioned and demanded the remainder of its land grant from the Government. Negotiations for the purpose of procuring the remainder of the said lands have been in progress ever since such demand; but up to the present time the said lands have not been obtained.

30 53. On 13th April, 1893, Mr. A. M. Nanton, acting on behalf of your Petitioners, addressed a written communication to the Honourable the Minister of the Interior for Canada requesting that further reserves be made for the Railway Company to select from, and he applied to the Government to set aside a tract of land in the Swan River Valley District for that purpose, giving the Townships and Ranges within which such selection should be made.

54. In the last mentioned communication it is stated that the Railway Company had been unable to select over 377,000 acres of land fairly fit for settlement from the said Government Reserves; but this estimate embraced a considerable portion of land which neither the Railway Company nor its Inspectors regarded as land fairly fit for
40 settlement but which the Railway Company was willing to accept in order to aid the Government in discharging its liabilities in reference to the foregoing.



55. On 21st April, 1893, and by the direction of the Honourable the Minister of the Interior, a letter was written to Mr. Nanton by the Secretary of the Department of the Interior, showing the attitude of the Government at that time, and which was written after the receipt of Mr. Nanton's letter of 13th April, 1893, and which is as follows, that is to say:—

" Department of the Interior, Canada.

" Ottawa, 21st April, 1893.

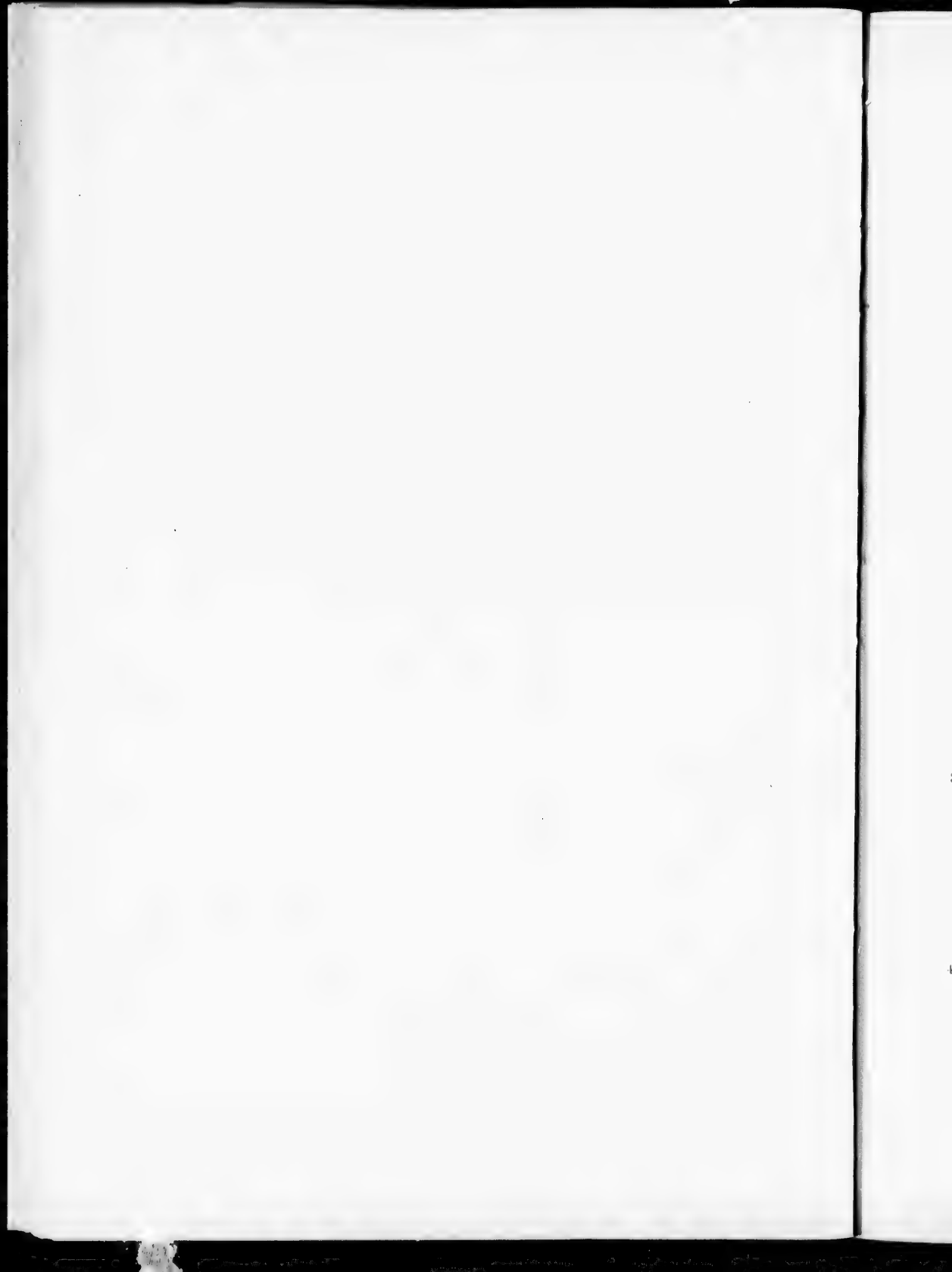
" Sir:—

10 " Having reference to the land grant of the Qu'Appelle, Long Lake and Saskatchewan Railway Company, respecting which you have had various interviews
" with the Minister of the Interior in the course of the past few days, I am directed
" to put in writing the substance of the conclusions arrived at by the Minister in
" regard to the various questions submitted by you for his consideration.

20 " 1. The area of the land grant to which the Company is entitled by virtue
" of the construction and completion of the railway from Regina to Prince Albert
" is 1,499,712 acres. Already tracts of land aggregating 2,743,591 acres, comparatively adjacent to the line of railway, have been set aside for the purpose of
" enabling the Company to select the first mentioned area therefrom; and these
" tracts of land have, it is understood, been carefully examined and graded by Mr.
" R. F. Dodd, an officer of your Company specially appointed to do so. The result
" is that Mr. Dodd has advised your Company that within this gross area of
" 2,743,591 acres there are but 377,000 acres (which have been indicated upon a
" map and set out in a schedule submitted by you to this Department) which he
" would recommend the Company to accept as being fairly fit for settlement.

30 " 2. Taking them as a whole, the lands lying south of the north branch of
" the Saskatchewan which have been set aside for the purposes of this selection
" by your Company, have been surveyed and set out for settlement by professional
" gentlemen employed for that purpose by the Department of the Interior, and the
" field notes of these surveys are of record in the Department. On the north side
" of the Saskatchewan, only the townships in comparative proximity to the river
" have been surveyed and set out for settlement, but a few township outlines have
" been extended as far north as the 14th base line. The field notes of all these
" surveys have been compared with results of Mr. Dodd's examination, and there
" is, as was explained to you verbally, a somewhat serious discrepancy between
" the conclusions arrived at by Mr. Dodd as to the quality of a great proportion
" of these lands and the grading of the same territory by the Departmental surveyors—so serious a discrepancy indeed as to make it clear to the Minister that
" only a new examination by a competent and independent surveyor, who up to
" the present time has not been engaged either for the Company or the Government
" in surveying or grading any of the lands in question and who will therefore
" be free to arrive at independent and reliable conclusions, can solve the
" difficulty. The Minister would have preferred that this work should be done
" by Mr. Wm. Pearce, D.L.S., and Superintendent of Mines, but on account of
" prior engagements Mr. Pearce is not at present, and is not likely to be during
" this season, available for work of this description. The Minister regrets this the

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"more because the officers of your Company have invariably expressed their readiness to abide by any conclusion at which Mr. Pearce might be likely to arrive. He will, however, at a very early day select another professional gentleman having as nearly as possible Mr. Pearce's experience and qualifications to make the necessary examination and report, and will take counsel with Mr. Pearce as to who is likely to prove the most capable for the work.

10 "3. Meantime, with such a large area of land already under reservation for the benefit of the Company, the Minister does not see his way, until the new examinations and reports have been completed and submitted, to make the additional reservations in the Swan River, Willow Bunch and Wood Mountain districts for which you have made application. He is quite sensible, however, that it would be in the public interest to have this matter settled at the earliest possible moment, and he will do everything which may lie in his power to permit of a satisfactory selection being made elsewhere if in the end it should prove that the proportion of land fairly fit for settlement within the tracts already under reservation is insufficient to make up to the Company the area to which they are entitled by virtue of the construction of their road.

20 "4. I am further to put in writing the verbal assurance which the Minister conveyed to you that pending the final location of the whole of your Company's land grant, no portion of the land in the Willow Bunch and Wood Mountain district, covered by your application, will be apportioned to any other railway company as a land grant, and he hopes in about a month or six weeks, or at all events well in advance of the settlement of the question of selection within the tracts already under reserve, to be able to tell you definitely whether any portion of the balance to which you may then be entitled can be provided for out of the lands applied for in the Swan River country.

"I have the honour to be,

"Sir,

"Your obedient servant,

"JOHN R. HALL,

"Secretary.

30

"To A. M. Nanton, Esq.,

"Winnipeg, Man."

56. No agreement having been arrived at between the Railway Company and the Government the latter decided to have an examination of the lands so set apart for the Railway Company made by a land surveyor, John McLatchie, who after making such examination reported at length to the Minister of the Interior, which report in so far as it is material to this Petition states that the Railway Company ought to accept 929,520 acres from the said Reserves in addition to what had been approved of by the Railway Company's examiners and should reject 1,376,000 acres, although he found and so reported that a very small proportion of the said Reserves contained first-class agricultural lands.

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57. The Railway Company was no party to the employment of Mr. McLatchie and has always contended and still contends that his report is quite unreliable and is based

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upon a principle of selection not warranted by the agreement between the Government and the Railway Company which called for lands "fairly fit for settlement."

58. The Reserves so examined by the said McLatchie and available for the Railway Company do not contain more than 377,000 acres of land fairly fit for settlement and this estimate includes a large quantity of land which the Railway Company upon a fair construction of the terms of its agreement with the Government ought not to be compelled to take. The estimate referred to is based upon the report of a careful and reliable Land Examiner named Dodd, who at great expense, which was borne by the Railway Company, made a thorough examination of the whole of the said Reserves and
10 whose report to the above effect was soon after its receipt by the Railway Company placed in the hands of the Government.

59. During the controversy between the Honourable the Minister of the Interior and his Deputy on the one hand and the Railway Company and its officers on the other, and which was kept up for a considerable time, as to the relative merits of the McLatchie and Dodd reports the Minister took the position that he had the legal right to determine the question as to what lands were fairly fit for settlement; but your Petitioners submit that such a construction of the agreement between the Government and the Railway Company is contrary to all principals of law and justice, and that such question is entirely one of fact to be determined upon the evidence relating thereto after ascertain-
20 ing the meaning to be given to the expression "lands fairly fit for settlement."

60. After a long correspondence between the representatives of the Minister and of the Railway Company, including correspondence with Messieurs Morton, Rose & Co., of London, England, who through your Petitioner, the Land Company, had a large personal interest in the said land grant and through whom the greater portion of the money to construct the said Railway was obtained, the President of the Railway Company, on 20th March, 1895, addressed to the Honourable the Minister of the Interior the following letter:—

"Toronto, March, 20th, 1895.

"The Hon. T. M. Daly,

"Minister of the Interior,

"Ottawa, Ont.

"Sir,—

"RE LAND GRANT.

"I beg to call your attention to the fact that the Land Grant to which this
"Railroad is entitled to has not yet been satisfied and that the Company is most
"anxious to come to an agreement without further delay regarding the lands
"which it shall agree to receive. I have already pointed out to your Depart-
"ment my views on all the points in dispute, and it is therefore unnecessary for
"me to go into details further than to again assure you, as has already been done
"verbally on numerous occasions, that the Company is and always has been anx-
"ious to make an amicable settlement of all the points in dispute. You are
"aware that I have already pointed out to your Department the way by which a
"settlement might be come to, viz., the placing of the Swan River Valley lands

"at this Company's disposal, and I cannot see after taking all points into consid-
 "eration, why you do not meet the Company in this way. Messrs. Morton, Rose
 "& Company have sent me a copy of their letter to you of the 27th December
 "last and desire to know from me in what position the Land Grant affairs now
 "stand, and I would therefore ask you to let me know at your earliest possible
 "convenience exactly what stand you take regarding the numerous points in dis-
 "pute and what suggestion you have to make regarding the settlement of the
 "same. I feel that the stand I have taken is the only one open to me, and had
 "I acted differently and accepted on behalf of the Railroad the bulk of the lands
 "offered by the Government, that I would not have fulfilled the trust vested in
 "me as President of the Company.

"I have the honour to be,

"Sir,

"Your obedient servant,

"H. C. HAMMOND,

"President."

To this letter the Minister replied as follows:—

"Ottawa, 27th March, 1895.

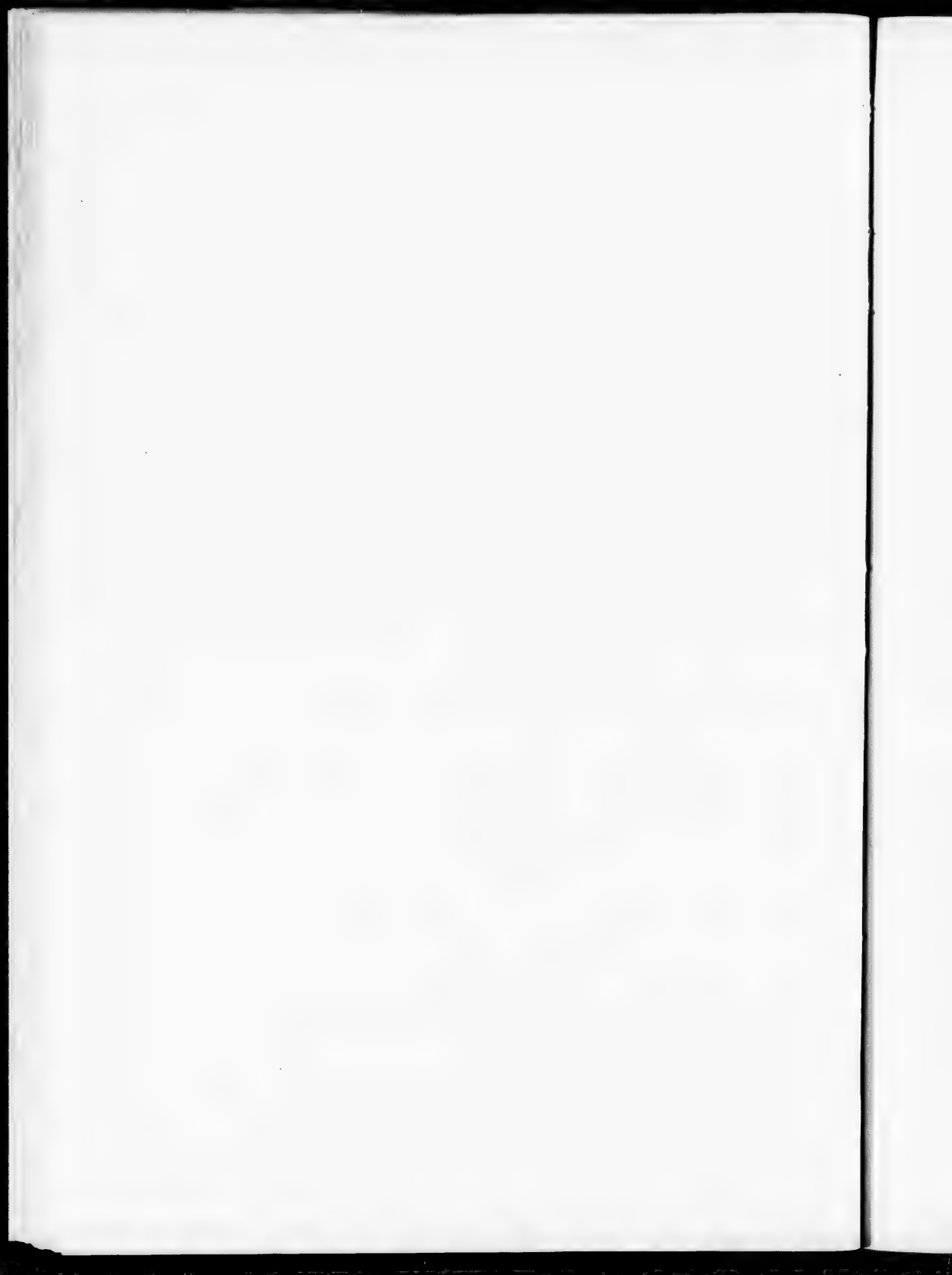
"My dear Sir:—

20 "I have to apologise for the delay in replying to your letter of the 20th,
 "which got mislaid in some way, and only turned up to-day. I was given to
 "understand by the Deputy Minister of the Department some time ago that he
 "was in communication with Mr. Nicol Kingsmill in connection with the land
 "grant to the Qu'Appelle & Long Lake Railway, but I am not aware at the time
 "of writing what conclusions were arrived at between them.

30 "I need only reply to that portion of your letter in which you say: 'I have
 "already pointed out to your Department the way by which a settlement might
 "be come to, viz: the placing of the Swan River Valley lands at this Company's
 "disposal, and I cannot see after taking all points into consideration why you do
 "not meet the Company in this way.' In reply to this I can only say that it is
 "entirely out of the question your Company looking to have the Swan River
 "Valley lands placed at their disposal. I am speaking from recollection, but I
 "think in the Departmental letter written to Mr. Nanton on the 23rd December,
 "1893, it was positively stated that these lands would not be held for your
 "Company.

"How it is you have come to the conclusion, in view of the statement
 "contained in the letter of 23rd December, 1893, previously referred to, that these
 "lands were being held for your Company, I cannot understand.

40 "As to the other points mentioned in your letter I will see that you are
 "communicated with at once, and fully, thereon.



"I will also send you a copy of our reply to the letter from Messrs. Morton,
" Rose & Co'y.

" H. C. HAMMOND, Esq.,

" *President Qu'Appelle,*

" *Long Lake & Saskatchewan Railway*

" *& Steamboat Co., 18 King St. West, Toronto.*"

" Believe me,

" Yours very truly,

" T. MAYNE DALY.

The Minister afterwards wrote to the President enclosing the Morton, Rose & Co. correspondence and explaining that the letter from Mr. Burgess, the Deputy Minister, to
10 Mr. Nanton referred to in his other letter is dated 7th May, 1894, and not 23rd December, 1893.

61. During the period after the receipt of the McLatchie and Dodd reports and up to the early part of April, 1895, negotiations were in progress between the Minister and the Railway Company for a reference of the questions in dispute to one William Pearce already referred to; but as he had already been committed to the declaration that the views of McLatchie as to what lands are fairly fit for settlement ought to prevail over those of Dodd and because he was then an official of the Department of the Interior, the Railway Company declined to leave the questions at issue to Mr. Pearce as sole arbitrator or referee. This decision was communicated by letter to the Interior Department
20 on 9th April, 1895, and on 29th April, 1895, the following communication was sent from the Interior Department to the President of the Railway Company :—

" Department of the Interior,

" Ottawa, 29th April, 1895.

" Sir :—

" Referring to the subject of the land grant of the Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company, as to which Mr. Kingsmill has forwarded to the Department a copy of a letter received by him from Messrs. Osler & Hammond, under date of the 9th instant, in which they decline, on behalf of the
30 Company, to allow the points in dispute between Mr. McLatchie and Mr. Dodd to be referred to Mr. Pearce, I have to inform you that under these circumstances the conclusions arrived at by Mr. McLatchie are the conclusions of the Minister of the Interior and the Minister now formally tenders you the lands enumerated in the enclosed schedule for the purpose of the land grant to your Company. I have further to notify you that the Minister will proceed to select and tender to your Company an additional area of land out of which to make up the balance coming to them.

" I have the honour to be,

" Sir,

" Your obedient servant,

" JOHN R. HALL,

" *Secretary.*

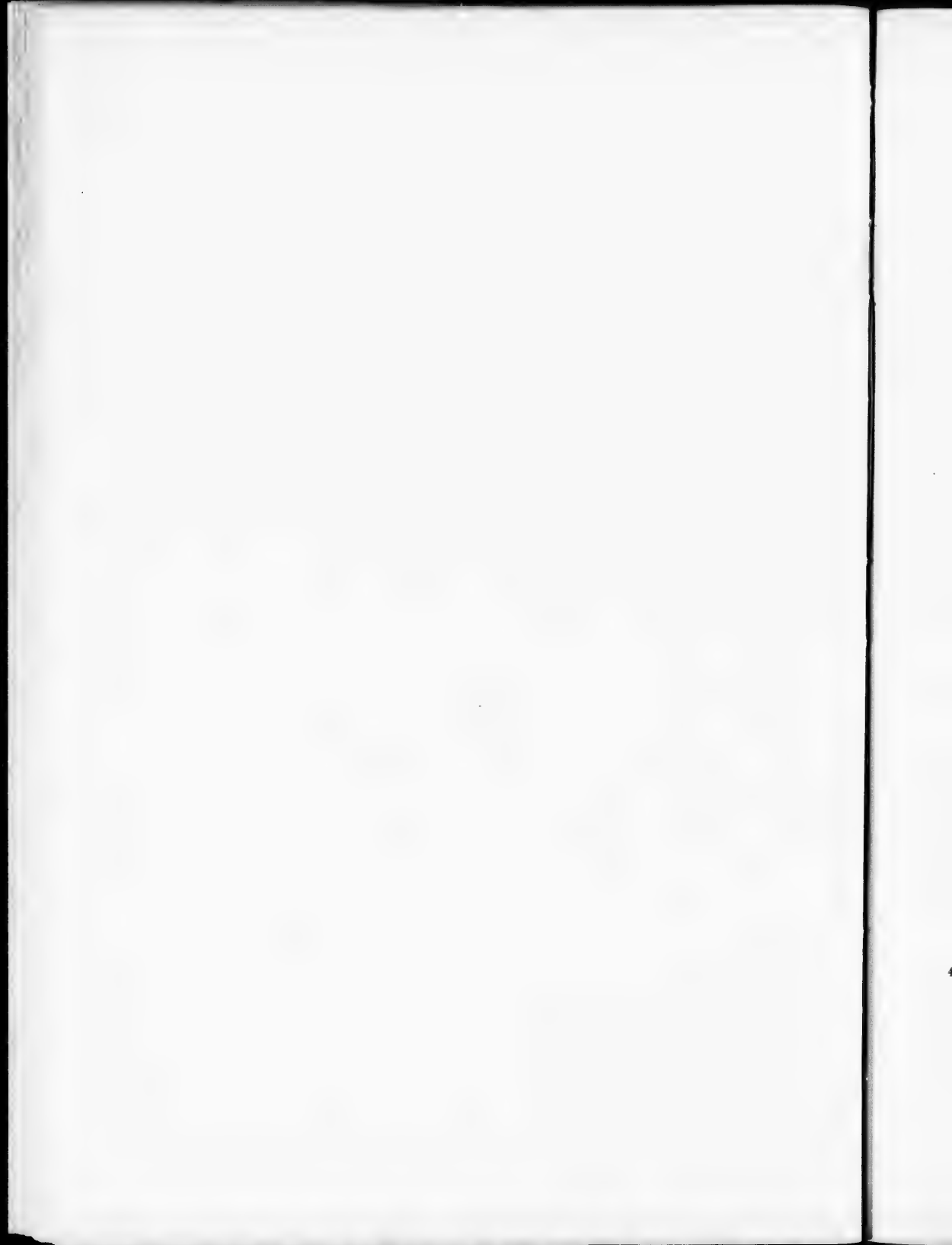
40 " H. C. HAMMOND, Esq.,

" *President Qu'Appelle, Long Lake & Saskatchewan*

" *Railway & Steamboat Company,*

" *18 King St. West,*

" *Toronto, Ontario.*"



The Schedule referred to in the said letter is a list of the lands which Dodd had rejected but which McLatchie had reported as fairly fit for settlement and purported to embrace 722,079.08 acres of land in the said Reserve.

62. On 21st of May, 1895, the President of the Railway Company wrote to the Secretary of the Department of the Interior as follows:—

" Toronto, May, 21st, 1895.

" *John R. Hall, Esq.,*
" *Secretary Department of the Interior,*
" *Ottawa.*

10

" Sir:—

" I have the honour to acknowledge your communication of 29th ultimo upon the subject of the land grant of the Qu'Appelle, Long Lake & Saskatchewan Railway & Steamboat Company and referring to refusal on behalf of the Company to the submission of the points in dispute between the Government and the Company to the arbitration of Mr. Pearce, and further informing me that under these circumstances the Department has adopted the conclusions arrived at by Mr. McLatchie and formally tendering to the Company the lands enumerated in the Schedule enclosed with your communication.

20

" I beg to say in the first place that I regret that the Minister should insist upon the questions in dispute being referred to Mr. Pearce, and I cannot help thinking that the reasons given in my former correspondence for refusing to submit these questions to Mr. Pearce are so cogent that they ought to have been accepted by the Minister.

" I am still not without hope that the Minister will agree that the differences as to the land which the Company ought to take and which arise on the conflicting reports of Mr. Dodd and Mr. McLatchie are capable of solution by a reference to a disinterested and unprejudiced referee, upon whom it ought not to be impossible for the Minister and the Company to agree.

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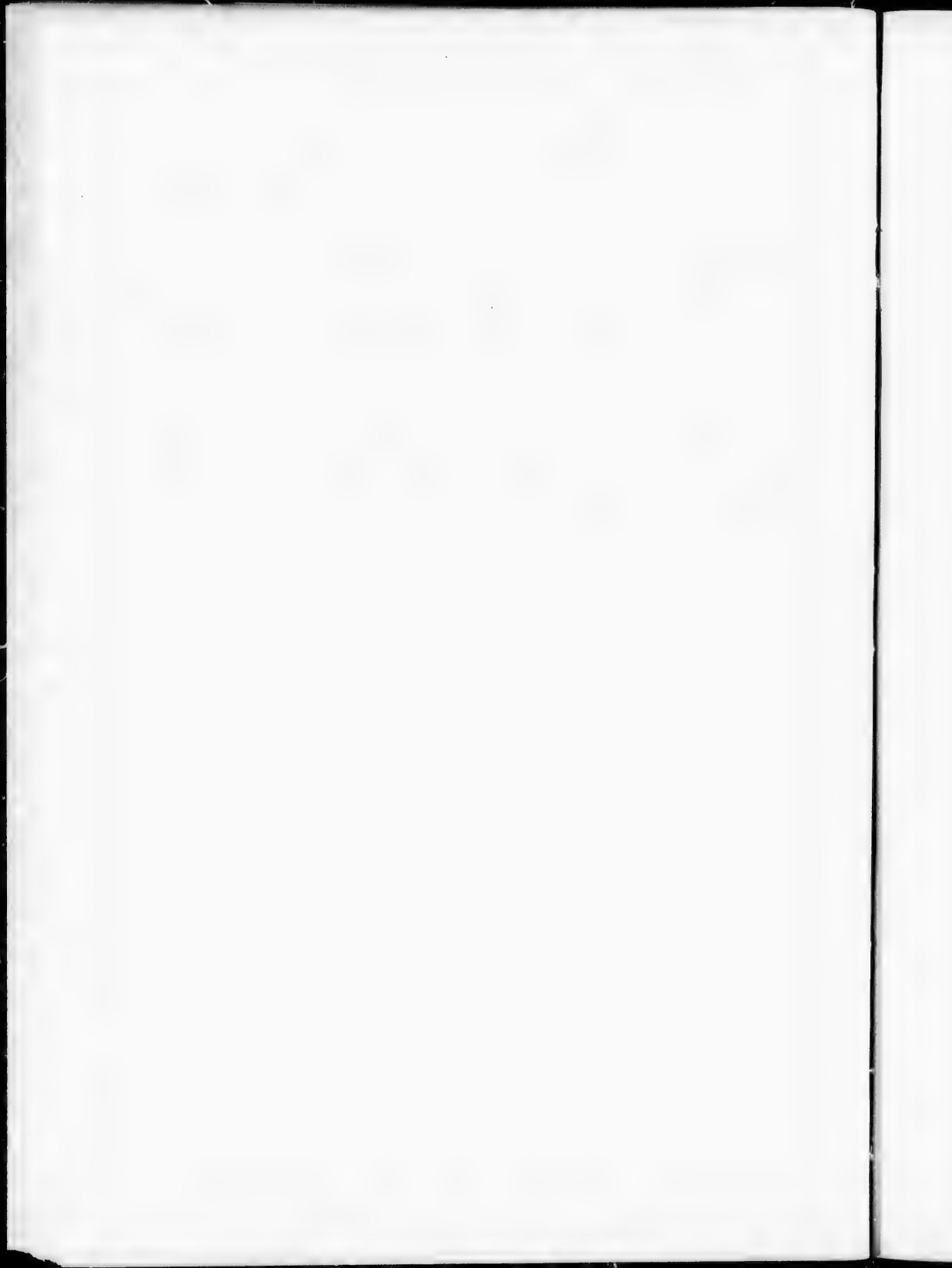
" I therefore hope that the Minister will reconsider his determination to accept the conclusions of Mr. McLatchie if the Company will not agree to leave the matters in dispute to Mr. Pearce.

" I have only to add that the Company is still quite willing to submit the dispute to a competent and unprejudiced expert, and I can assure you that the Company will not be found to be unreasonable when the selection of such an expert comes up for consideration. Failing that I beg to say on behalf of the Company that they cannot accede to the claim of the Minister that he has the legal right to determine what lands are fairly fit for settlement, and beg to submit that this is a question in which the Company has a right to be heard.

40

" As to the lands tendered, I beg to say on behalf of the Company that the Company cannot accept the same, as in the opinion of the Company they do not consist of lands that are fairly fit for settlement or such that the Government are called upon by their contract with the Company to give to it.

" I beg to add that as there has already been a great deal of delay in setting apart proper reserves out of which the lands to which the Company are entitled



" can be selected, and as this is a matter now of very serious moment to the Company, I would respectfully ask that the Minister should without further delay set apart proper Reserves out of which the Company might select the remainder of the lands to which they are entitled under their agreement with the Government.

" I beg further to add that the Company still adhere to the position taken in former correspondence in reference to the lands in the Swan River District, and would be quite willing to accept their lands so far as they will go from Reserves in that District in accordance with the understanding which in the view of the Company was formerly arrived at with the Minister.

" I have the honour to be,

" Sir,

" Your obedient servant,

" H. C. HAMMOND,

" *President.*"

And on 27th May, 1895, the Secretary replied as follows:—

" Department of the Interior,

" Ottawa, 27th May, '95.

" Sir:—

20 " I beg to acknowledge the receipt of your letter of the 21st instant, in further reference to the subject of the Qu'Appelle, Long Lake & Saskatchewan Railway Company, and to say that your representations will be submitted for the Minister's consideration at as early a date as possible, but it will have to be borne in mind that during the Session of Parliament it is not easy to find the time necessary to give questions of this kind the careful consideration which they deserve.

" I have the honour to be,

" Sir,

" H. C. HAMMOND, Esq.,

" 18 King St. W.,

" Toronto, Ont."

" Your obedient servant.

" JOHN R. HALL,

" *Secretary.*

30 63. No further communications having been received by the Railway Company its interests and the interests of the other Petitioners were, on 19th July, 1895, placed in the hands of their present solicitors with instructions to secure their rights under the afore said Orders-in-Council and Agreements, and on that day the solicitors sent the following letter to the Minister:—

" July 19th, '95.

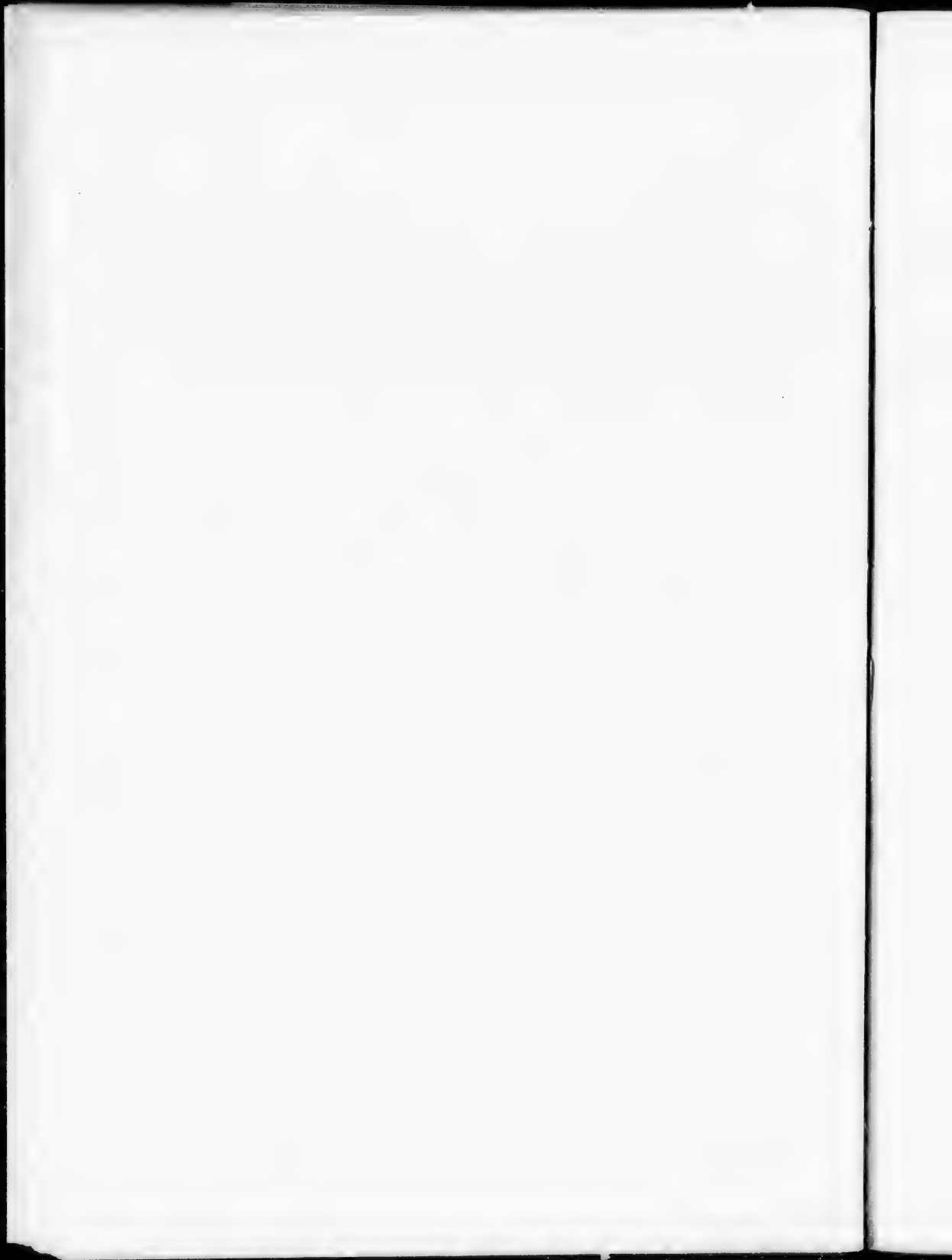
" *The Honourable*

" *The Minister of the Interior,*

" *Ottawa.*

" Sir,—

40 " We have the honour to state that the interests of the Qu'Appelle, Long Lake & Saskatchewan Railroad and Steamboat Company and of the



"various parties interested in the Land Grant of that Company including the
 "English investors, have been placed in our hands, and in order to fully inform
 "ourselves as to the facts we have carefully perused and considered the various
 "Orders-in-Council which have from time to time been passed in connection with
 "this Land Grant, the various reports which have from time to time been made
 "in connection therewith and the correspondence which has passed between your
 "Department and our clients in reference thereto

10 "The correspondence discloses that our clients have been unable to secure the
 "land to which, we think, they are legally entitled, as it seems to be quite beyond
 "doubt that the Railway has been completed and has been accepted by the
 "Dominion Government.

"We feel quite sure that you will agree with us that it is not necessary for
 "us to refer at length to the particulars of the various Orders-in-Council or to
 "the difficulties which have arisen between your Department and the Company
 "as to the rejection of the lands which you have proposed should be accepted by
 "them and which the Company has rejected because the same are not fairly fit
 "for settlement.

20 "A request has been made by the Company to your Department that other
 "lands shall be set apart from which the Company may select its Land Grant and
 "we are instructed that no favourable response has yet been received by the Com-
 "pany to this request and we presume we may conclude that this request has
 "been refused.

"We now therefore on behalf of the Company and of all parties interested in
 "this land grant beg to request that you will inform us if the Crown will, at an
 "early date, set apart other lands in the North-West Territories from which the
 "remainder of this Land Grant to which this Company is entitled may be
 "selected.

30 "We think it only right that we should now state that the instructions which
 "we have received require us to assert the legal rights of the Company and the
 "other parties interested in this Land Grant in the event of the Crown refusing
 "to set apart other lands from which the selection may be made and in such event
 "it is our intention to institute proceedings against the Crown and to claim
 "compensation in money as an alternative if the remainder of the Land Grant be
 "refused, or if it is found that for any reason the same cannot now be provided by
 "the Crown.

40 "Our clients will greatly regret being compelled to resort to the Courts for
 "the assertion of their rights but the interests involved are too important to
 "warrant their being deprived of their lands or of compensation for what we
 "with deference, submit will be a clear breach of contract on the part of the
 "Crown.

"We have the honour to request that we may be favoured with an early
 "reply to this communication.

"We have the honour to be,

"Sir,

"Your obedient servants,

"McCARTHY, OSLER, HOSKIN & CREELMAN."

64. On the 23rd July, 1895, the Assistant Secretary of the Department wrote to the solicitors acknowledging their letter of the 19th and stating that the matter would be brought to the immediate attention of the Minister, and on the 31st July the Assistant Secretary again wrote to the solicitors to the effect that the whole of the papers having relation to this land grant had been referred to the Department of Justice and the solicitors were requested to await the decision of the Justice Department, when the Minister of the Interior would again communicate with them.

65. No action having been taken in the matter by the Minister, the solicitors on 11th September, 1895, again wrote to the Department for an answer to the letter of 19th July, and on 20th September the Assistant Secretary of the Department wrote to the solicitors saying that the matter was still with the Department of Justice.

66. On 3rd October, 1895, the following letter was sent to the solicitors from the Department of the Interior under instructions from the Minister:—

" Department of the Interior,

" Ottawa, October 3rd, 1895.

" Gentlemen :—

" Referring to the correspondence which you have had with the Department
 " in regard to the land grant of the Qu'Appelle, Long Lake & Saskatchewan
 " Railroad & Steamboat Company, I have the honour, by direction, to state that
 20 " we are now advised by the Minister of Justice that if there is an irreconcilable
 " difference between the Company and the Department as to the quantity of land
 " in the tracts already set apart by Order-in-Council which is available for the
 " Company's Land Grant as being fairly fit for settlement, he is of opinion that no
 " other course is open to the Government than to leave the Company to assert its
 " claims in the Courts. The Minister of Justice points out that it would no doubt
 " be less expensive than legal proceedings, and otherwise more satisfactory, if the
 " Government and the Company could agree upon some referee whose decision as
 " to the fitness of each parcel tendered by the Department would be accepted by
 30 " both parties as final. As you are aware, the attempt to promise a settlement in
 " this way has not so far been successful, the Company refusing to agree to the
 " appointment as referee of Mr. Pearce, the Superintendent of Mines, to whom the
 " Department proposed to submit the matter.

" I am to add that the Minister of the Interior is very anxious that this
 " question should be settled as soon as possible, and I am to ask that the Company
 " will take into its serious consideration the suggestion of the Minister of Justice
 " for dealing with the matter through a referee and without going to the Courts.

" I have the honour to be,

" Gentlemen,

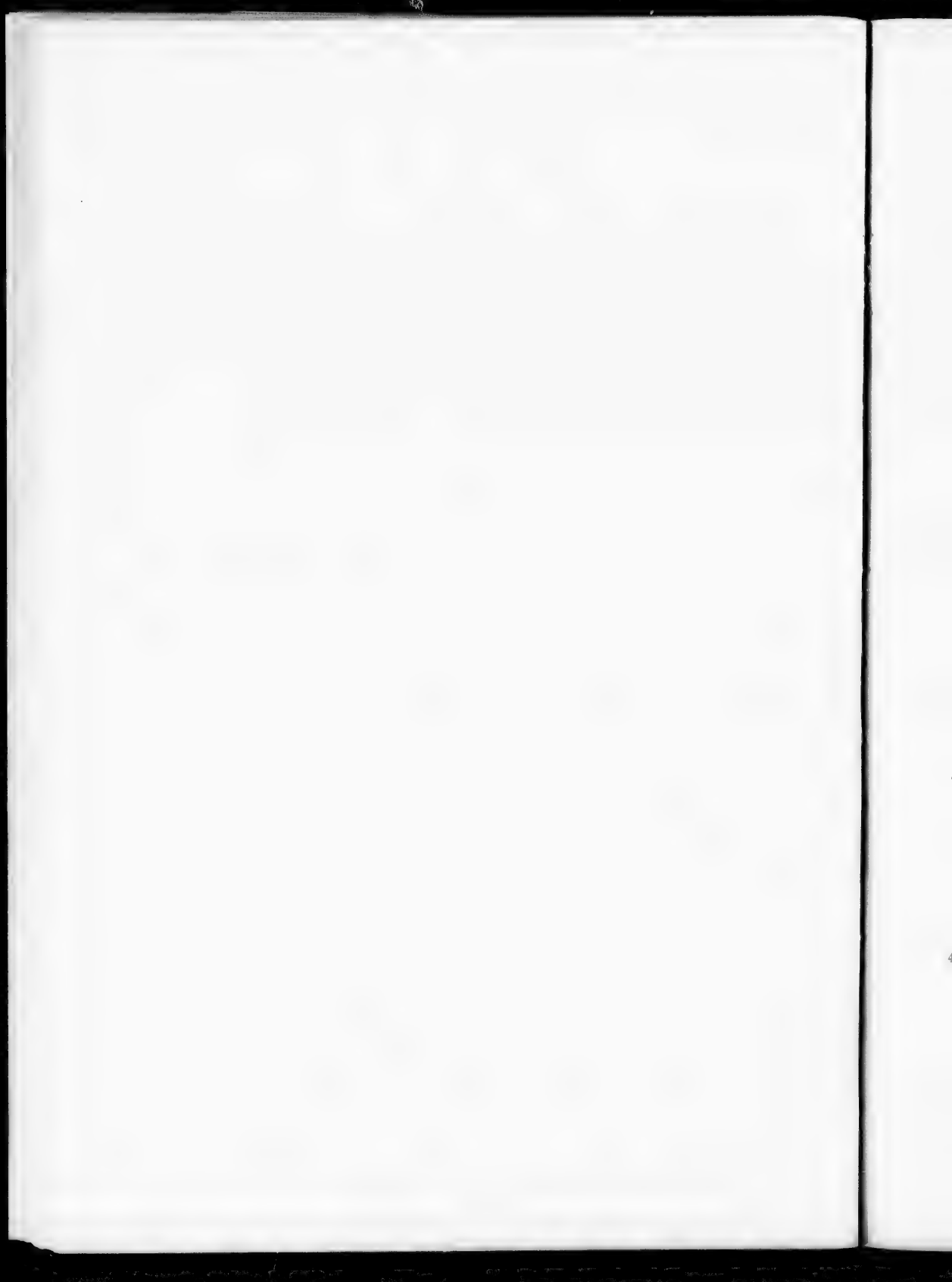
" Your obedient servant,

" LYNDWODE PEREIRA,

" Assistant Secretary.

" To MESSRS. MCCARTHY, OSLER, HOSKIN & CREELMAN,

" Barristers, Toronto."



67. On 14th October the solicitors under instructions from your Petitioners wrote to the Secretary of the Department of the Interior as follows:—

"Oct. 14th, 1895.

"The Secretary

"Department of the Interior,

"Ottawa.

"Sir:—

"RE QU'APPELLE, LONG LAKE & SASKATCHEWAN RY. & S. CO.,
FILE No. 65383, No. 5.

10

"We have the honour to acknowledge the receipt of your letter of 3rd inst. and beg to say that it has been submitted to our clients, with whom we have very fully discussed its contents.

20

"After we had made ourselves familiar with the various Orders-in-Council relating to this matter and with the lengthy correspondence that has taken place between our clients and your Department, we formed the opinion that there was an irreconcilable difference between the Company and the Department owing to the fact that the Minister seemed to have made up his mind that the Company could from the tracts of land already set apart by Order-in-Council select sufficient lands fairly fit for settlement to meet the requirements of the former Orders-in-Council and the Company seemed to be perfectly satisfied that the tracts so set apart did not contain even a considerable proportion of the lands to which the Company was entitled.

"Your letter of the 3rd inst. and the proposition therein contained lead us to suppose that these differences are not irreconcilable.

"We can assure you that any disposition of this matter which will render unnecessary the expense of legal proceedings which we thought inevitable will be regarded as very satisfactory to our clients.

30

"We think it only due to our clients, however, to say that when they declined to acquiesce in the suggestion that Mr. Pearce, Superintendent of Mines, should be appointed as sole referee they had before them the statement of Mr. Burgess that Mr. Pearce had already expressed himself in favour of the report made by Mr. McLatchie and you can easily understand that this would, to a very large extent, disqualify Mr. Pearce from acting as an impartial referee.

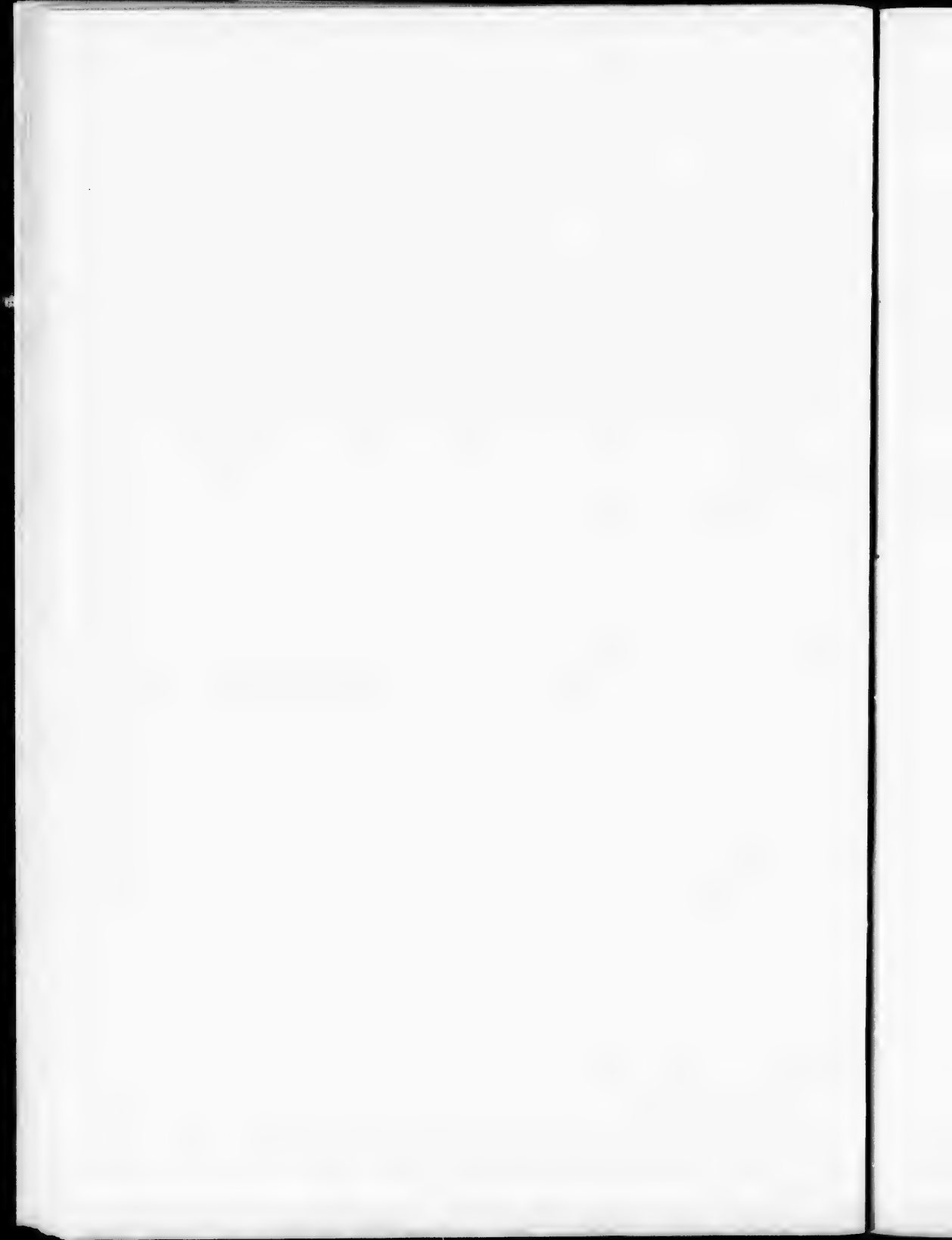
"If a referee satisfactory both to the Minister and the Company could be agreed upon we are quite sure that our clients will not decline to come in to some arrangement with that object in view.

"It seems to us, however, that before determining upon a reference and, perhaps before considering names, it would be advisable to agree in some way or other as to the meaning of the expression 'lands fairly fit for settlement.'

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"Our views as to the proper definition of this term may not be different from those held by the Minister.

"We would be glad, however, to be informed if some understanding can be arrived at between us and the Minister as to the instructions which would be given to the referee as to this point; in other words, what is the meaning of the expression 'lands fairly fit for settlement.'



"We have no doubt that this question has been very fully considered in the Department and that you will not find it difficult to give us the views entertained by the Minister in this connection.

"If we could agree as to the meaning of the words 'lands fairly fit for settlement' and if it could also be agreed that such definition is to be furnished to the referee we do not think that there will be much difficulty in agreeing upon a proper person.

10

"We can assure you that we are very anxious that this question should be settled as soon as possible and we are glad to notice that the Minister of the Interior is also desirous that there should be no further delay.

"If our negotiations will result in our coming to an understanding for the settlement of this matter through a referee without going to the Courts we can assure you that we shall be very much pleased and we are satisfied that our clients will regard it as a happy solution of the difficulty.

"We have the honour to be,

"Sir,

"Your obedient servants,

"McCARTHY, OSLER, HOSKIN & CREELMAN."

68. On 22nd October, 1895, the President of the Railway Company wrote to the 20 Minister of the Interior as follows:—

"Toronto, Oct. 22nd, 1895.

"Hon. T. M. Daly,

"Minister of the Interior,

"Ottawa, Ont.

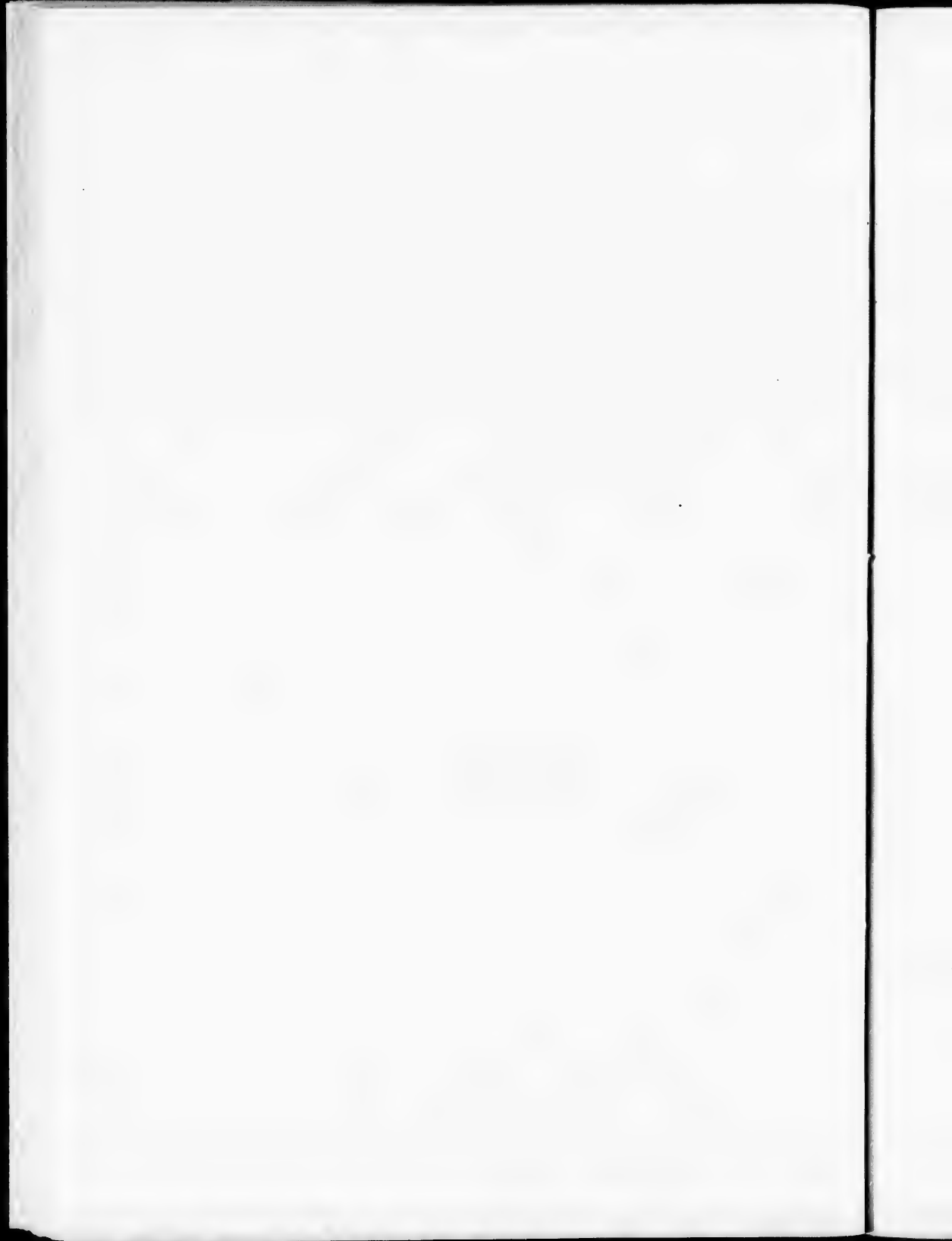
"Sir:—

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"The Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamboat Company are now proceeding to vest in the different parties entitled thereto the lands which have been earned by the construction of the Company's Railway, and, in doing so, are proceeding upon the basis that that portion of the Dominion land subsidy which was reserved to secure the Government subsidy of \$80,000 a year, would not form part of the lands already, or about being, selected by the Company, but that the Government would allow the Company to select its land before setting aside the Government portion. This seems to be the intention of the Order-in-Council of the 4th of February, 1891, which states as follows:—

40

"The Minister observes further that the Company have already earned by construction Since, however, by virtue of the Agreement between the Company and the Government, dated the 5th of August, 1889, provision is made for the retention of one-third of the Company's land grant to be held by the Government as a first charge or lien securing the re-payment of any deficiency in the amount earned by the Company in any year for the services provided for by the contract in question, he is of opinion that the present requirements of the Company in regard to their land grant will be sufficiently fulfilled if the lands mentioned in the two schedules hereto attached, marked A and C, are reserved and set apart to be granted to the Company



"under the Order-in-Council, and Agreements having reference to the Company's
"land subsidy which are now in force and effect."

"This Order-in-Council follows an interview with the Minister of the
"Interior, when the Minister verbally agreed to forego the selection of the
"Government one-third (499,114 acres) until the Company had selected all it
"required. The Company have always been acting upon this supposition, but
"that there may be no misunderstanding in reference to it, would like it to be put
"upon record, either by Order-in-Council or by communication to the Company.

"I have the honour to be,

"Sir,

"Your obedient servant,

"H. C. HAMMOND,

"President."

69. On 6th November, 1895, the solicitors again wrote to the Secretary of the
Interior Department as follows:—

"Nov. 6th, 1895.

"The Secretary,

"Department of the Interior,

"Ottawa.

"Sir:—

RE THE QU'APPELLE, LONG LAKE & SASKATCHEWAN RAILWAY COMPANY.

"We have the honour to again refer you to your letter to us of 3rd ult. in
"this matter, and to our reply of 14th ult.

"Our clients in England are becoming restive, and cannot understand why
"we are not able to report that something definite has been done in obedience to
"the instructions which we have received.

"We beg to ask that our letter of 14th ult. may receive early consideration
"in your Department, and that we may be favoured with an answer thereto at an
"early day.

"We have the honour to be,

"Sir,

"Your obedient servants,

"McCARTHY, OSLER, HOSKIN & CREELMAN."

and on 14th November, 1895, the Assistant Secretary answered this letter by saying
that the matter was not being lost sight of.

70. On 19th November, 1895, the President of the Railway Company again wrote
to the Minister of the Interior as follows:

"Toronto, Nov. 19th, 1895.

"Hon. T. M. Daly,

"Minister of the Interior,

"Ottawa.

"Sir:—

"Referring to my letter to you of the 22nd of October last and your
"acknowledgment of the same with regard to the question as to whether it is

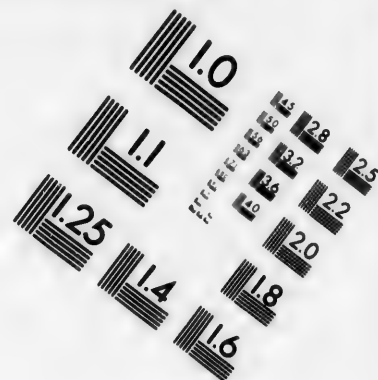
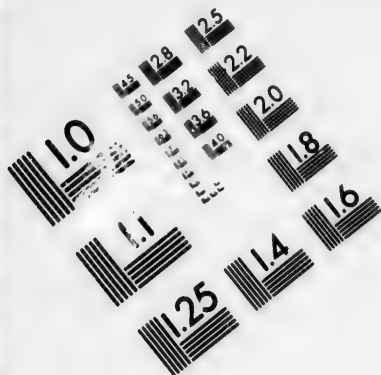
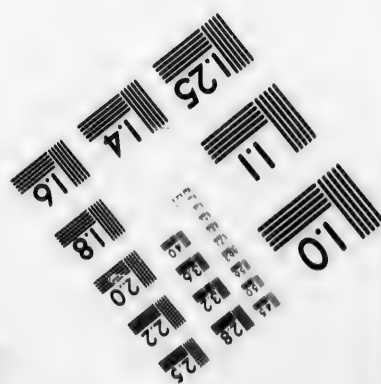
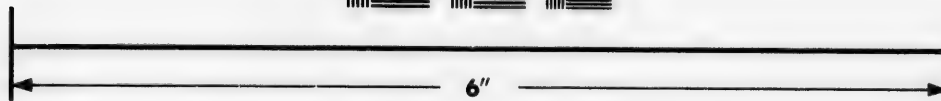
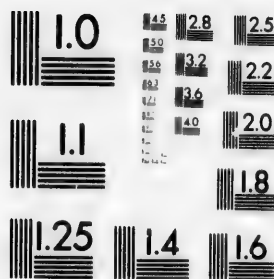


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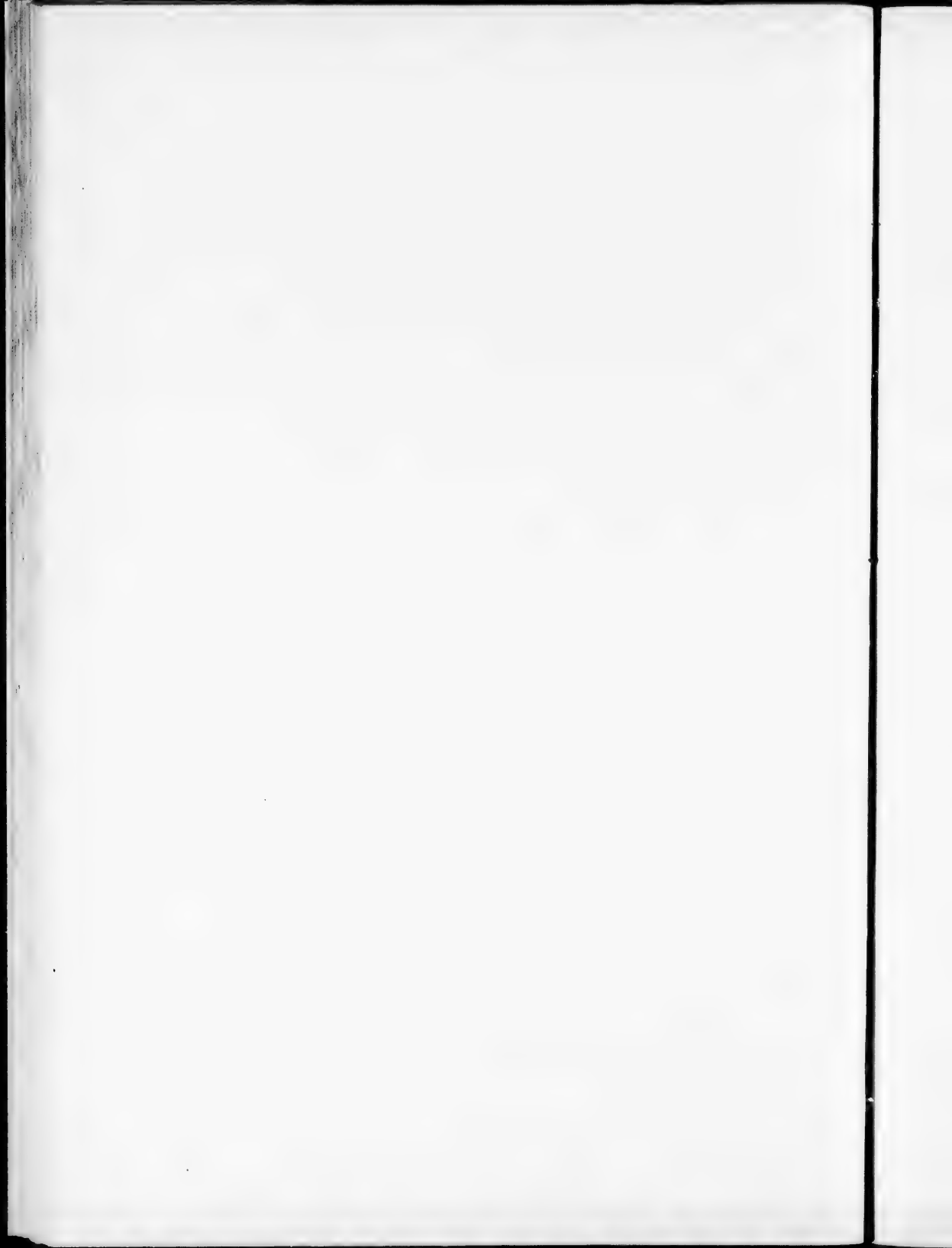


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"clearly understood that the Government forego the selection of their 499,114 acres of security lands until the Company have selected all that they require, I shall be very much obliged if you can let me have a definite reply to my letter at an early date, as the Company are now making certain arrangements with regard to their Land Grant, which cannot be carried out without a definite understanding on the above point.

"I have the honour to be,

"Sir,

"Your obedient servant,

"H. C. HAMMOND,

"President."

10

and on 25th January, 1896, the following reply was sent from the Department of the Interior to the President of the Railway Company :—

"No. 391616.

Department of the Interior,

"Ottawa, 25th January, 1896.

"Sir :—

"Referring further to your letter to the Minister of the Interior of the 19th November last, in which you refer to the question of the Government's foregoing the selection of their 499,114 acres of security land until the Qu'Appelle, Long
20 "Lake and Saskatchewan Railway Company have selected all that they require, I beg to inform you that the Minister has had all the papers in regard to the land grant of the Company carefully examined. It is found that the whole extent of land to which this Railway Company is entitled is 1,625,344 acres, and that there was reserved for them an area of 2,773,591 acres approximately, out of which they have accepted an area of 574,694 acres. This Department bases on the report of its Surveyor a contention that the Company should be required to take a further area of 722,079.08 acres, leaving 328,570 acres yet to be selected, and in respect of which no locality has been designated in which the selection is to be made. The proportion of the whole grant of land to which the
30 "Company is entitled which the Government is required by the contract to hold as security is 499,114 acres, which is 170,544 acres in excess of the quantity of land still necessary to make up the area due to the Company assuming the lands set apart on the report of Mr. McLatchie for their use to be, as the Department contends they are, fairly fit for settlement. I am to point out that if the Company and the Government were agreed upon this question, the 499,114 acres referred to by you might be selected out of the tract reserved and set apart as stated and could be held as security for the performance of the Company's contract; for, since the Department takes the ground that this land is fairly fit for settlement, it would of course be quite prepared to accept a proportional
40 "share of it for the purposes of the security. It will be observed that for this very reason the Government is interested in the question of whether the land in dispute is or is not fairly fit for settlement to an extent which would prevent the Department in the public interest from endeavoring to force upon the Company land that is not of that ~~class~~ class.

"The Minister desires me to say that he is quite willing, as soon as an agreement has been arrived at in regard to the lands about which there is an existing difference, to designate the lands from which the remainder of the grant to which the Company are entitled shall be selected, and to consider how the selection of the security lands to be held by the Government is to be made.

"I have the honour to be,

"Sir,

"Your obedient servant,

"JOHN R. HALL,

"Secretary.

10

"H. C. HAMMOND, Esq.,

"President,

"Qu'Appelle, Long Lake & Saskatchewan Ry. Co.,

"Toronto, Ontario."

71. On 20th and 28th February, 1896, long discussions took place at Ottawa between Mr. A. M. Burgess, the Deputy Minister of the Interior, and Counsel and other representatives of your Petitioners, and attempts were made on behalf of your Petitioners to induce the Minister to set apart further Reserves to satisfy the said Land Grant, or to enter into some arrangement for the settlement of the differences between the Government and your Petitioners in reference to the said Land Grant. At the close of these discussions the Deputy Minister agreed to submit the whole question to the Minister at an early date, and to acquaint Counsel for your Petitioners of his decision upon the claim.

72. On 8th February, 1896, the President of the Railway Company wrote to the Secretary of the Department of the Interior as follows:—

"Toronto, Feb. 8th, 1896.

"The Secretary,

"Department of the Interior,

"Ottawa.

30

"Sir:—

"I beg to acknowledge receipt of your favor of 25th January, No. 391616, contents of which have been carefully noted. Before replying fully to your letter I would like to consult with Mr. Nanton, who is expected down here in the course of a week or two; and meantime I shall be very much obliged if you will advise me how you arrive at the area of 574.694 acres which you state the Company have accepted, so that I may have the information for Mr. Nanton when he comes down. From the figures I have in this office I cannot make it that the Company have accepted such a large area as you mention.

"I have the honour to be,

"Sir,

"Your obedient servant,

"(Sgd) H. C. HAMMOND,

"President."

40

73. On 12th February the Secretary of the Department of the Interior wrote to the President of the Railway Company as follows :—

" Department of the Interior,

" Ottawa, 12th Feb, 1896.

" File 65,383.5.

" No. 397323.

" Sir :—

10

" In reply to the question which you ask in your letter of the 8th inst. as to
" how the area of 574,694 acres which have been accepted by your Company is
" arrived at, I beg to inform you that your agent, Mr. Dodd, selected 446,694 acres
" outside of the grant to the Land Corporation of Canada, the latter being 128,000
" acres.

" I have the honour to be,

" Sir,

" H. C. HAMMOND, Esq.,

" Your obedient servant,

" President,

" JOHN R. HALL,

" Qu'Appelle, L. L. & S. R. & S. Co.,

" Secretary.

" Toronto."

74. On 10th March, 1896, the Deputy Minister wrote the following letter to Mr.
20 A. R. Creelman, one of the Counsel for your Petitioners, as follows :—

" Ottawa, 10th March, 1896.

" Dear Mr. Creelman :—

" Referring to the recent interview I had with Messrs. Osler and Nanton and
" yourself in regard to the land grant of the Qu'Appelle, Long Lake & Saskatche-
" wan Railway Company, I beg to say that I have submitted to the Minister in
" writing the effect of our discussion, and he now directs me to say that he will,
" at the earliest possible moment, submit the whole matter for the consideration
" of His Excellency in Council.

30

" Yours very truly,

" A. M. BURGESS,

" D. M. I.

" A. R. CREELMAN, Esq., Q. C.,

" Toronto,

" Ont."

75. On the 11th March, 1896, the President of the Railway Company wrote to the
Secretary of the Department of the Interior as follows :—

" Toronto, March 11th, 1896.

" The Secretary,

" Department of the Interior,

" Ottawa, Ont.

40

" Sir :—

" I duly received your favor of 12th February, No. 397323, which I referred
" to Mr. Nanton at Winnipeg, and he advises me that he has no knowledge of

"Mr. Dodd having selected 446,694 acres outside of the grant to the Land Corporation of Canada, as stated in your letter, and that he cannot understand how you arrive at the figures.

"I have the honor to be,

"Sir,

"Your obedient servant

"H. C. HAMMOND,

"President."

76. On 21st March the Deputy Minister of the Interior wrote to the President of the Railway Company as follows:—

"Ref. 65383 No. 5,

"Ottawa, 21st March, 1896.

"Mr. Hammond:—

"Your letter of the 11th inst to the Secretary of the Department has been brought to my attention. In it you state that Mr. Nanton informs you that he has no knowledge of Mr. Dodd having selected 446,694 acres, outside of the grant to the Land Corporation of Canada. Will you please let me know at your earliest convenience what your Company does claim to have selected up to the present date.

20

"Yours truly,

"A. M. BURGESS,

"D. M. I.

"H. C. HAMMOND, Esq.

"President,

"Qu'Appelle, L. L. & S.R. & S. Co.,

"North of Scotland Chambers,

"Toronto

77. On 30th April the President of the Railway Company wrote to the Deputy Minister of the Interior as follows:—

30

"A. M. Burgess, Esq.,

"Toronto, April 30th, 1896.

"Deputy Minister of the Interior,

"Ottawa.

"Dear Mr. Burgess:—

"Referring again to your letter to me of the 21st of March, last Ref. 65383, No. 5, asking what amount of land this Company claimed to have selected up to present date, I now beg to hand you herewith copy of a letter which I have received from Messrs. Osler, Hammond & Nanton, Winnipeg, giving you the information you ask for, and by which you will notice that the total acreage of lands which the Company have agreed to accept and which have been scheduled to the Company is 224,336.96 acres. This with the exception of the 22,016.68 acres deducted from our original schedule which may become available in the future, is the only land that the Company have agreed to accept.

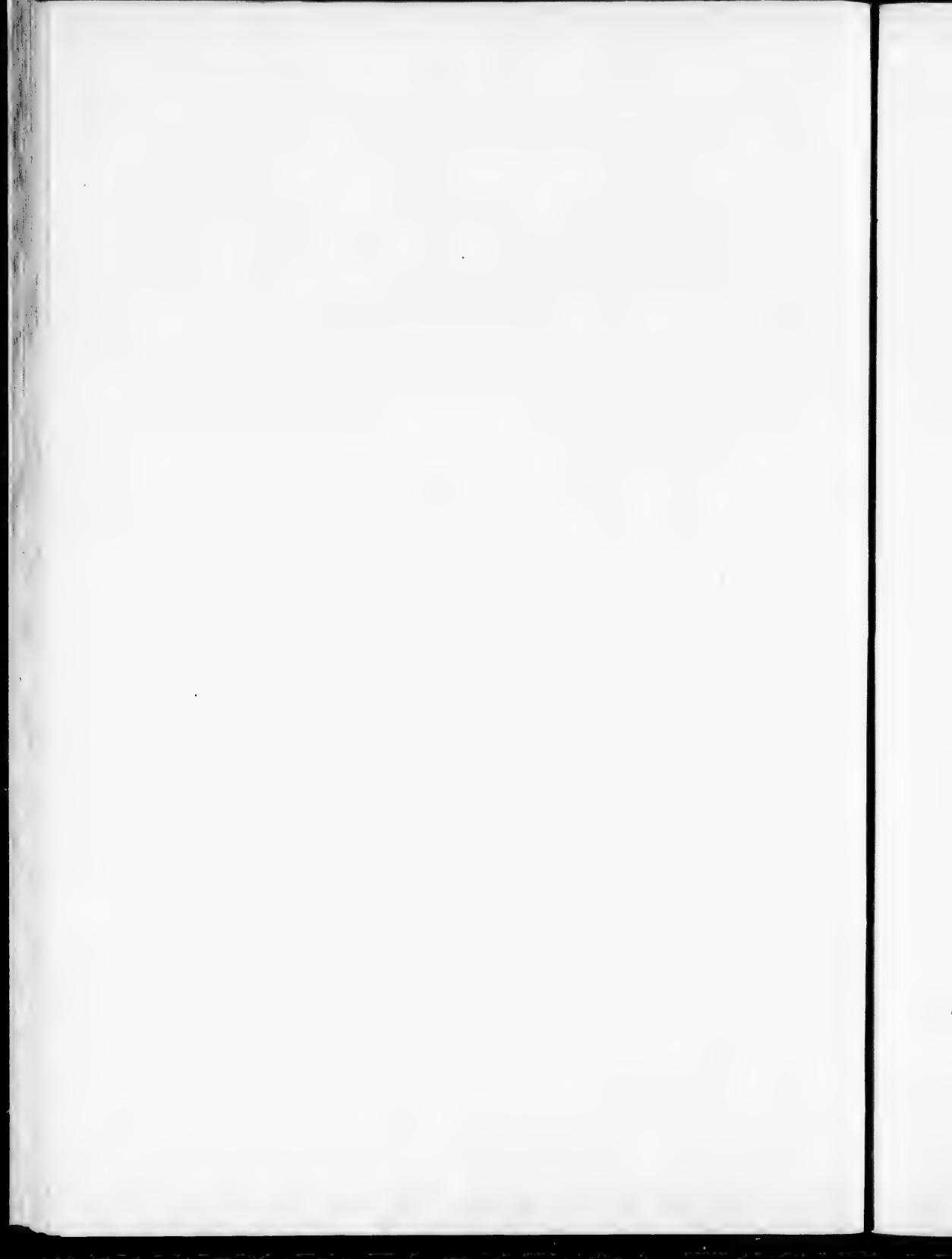
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"Yours truly,

"H. C. HAMMOND,

"President.

"Enc."



The letter from Osler, Hammond & Nanton referred in the foregoing is as follows:—

"Messrs. Osler & Hammond,
"Toronto, Ont.

"22nd April, 1896.

"Dear Sirs:—

"RE Q. L. L. & S. LAND GRANT.

"Replying to your favor of the 23rd ultimo, we beg to say that on the 22nd
"February, 1892, we furnished the Department with a schedule showing 238,419.30
"acres which we were willing to accept as a portion of our land grant. On the
10 "4th March, 1892, the Department advised us (their letter No. 286,538) that
"22,016.68 acres were not available, thus leaving the area available on account of
"our land grant 216,402.62 acres. Since then we understand 7,933.34 acres have
"been freed, making a total of 224,335.96 acres scheduled to us. This is the only
"land which we are committed to accept, except perhaps the balance of the
"22,016.68 acres deducted from our original schedule, if at any time in the future
"found to be available. In addition to this Mr. Dodd reported about 49,887.65
"acres additional north of Township 35, and 213,471.77 acres additional south of
"Township 35, making a total of 263,359.42 acres (shown colored yellow on map,
20 "reference 57) which might be considered fairly fit for settlement, but on account
"of scattered situations and the poor lands adjoining, the Company think it unfair
"that they should be forced to accept. The only way the Government could claim
"we are committed to taking these latter lands is through the fact Mr. Dodd
"reported as above, and the Department has a copy of his report. We do not
"consider that we are in any way committed.

"Yours truly,

"OSLER, HAMMOND & NANTON."

78. Owing, as was stated to your Petitioners by the Deputy Minister, to the sitting
of Parliament in March and April, 1896, and to the general elections and change of
Government in the summer of that year, the Honourable Mr. Daly, the Minister of the
30 Interior at that time, did not give the matter of this claim his attention as promised, and
up to the time of the formation of the present Canadian Government no definite reply
had been given to your Petitioners' demand for the balance of the said Land Grant.

79. After the change of Government there was a long delay in filling the office of
Minister of the Interior, and when the present Minister, the Honourable Clifford Sifton,
assumed the duties of that office, your Petitioners, who had been repeatedly told by the
Deputy Minister that nothing could be done until there was a Minister duly appointed,
deemed it advisable to wait until the new Minister had an opportunity of familiarizing
himself with the details of the Department, and for these reasons nothing was done
either towards advancing the claim on the part of your Petitioners or towards consider-
40 ing it on the part of the Government until 16th August, 1897, when Mr. E. B. Osler, act-
ing on behalf of your Petitioners, wrote to the Minister the following letter:—

"Toronto, Aug. 16th, 1897.

"Hon. Clifford Sifton,

"Minister of the Interior,

"Ottawa.

"Dear Sir:—

"RE QU'APPELLE & LONG LAKE LAND GRANT.

"You will recollect that Mr. Nanton and I had a conversation with you in reference to this land matter, and it was suggested that the matter be postponed until after Parliament had risen, and until you had a little more leisure. I would like to hear from you when it would be convenient for you to see Mr. Nanton and myself and go fully into the question and try and arrive at a settlement of this matter which has been in abeyance so long.

"I may say that my present arrangements are to leave here for the Northwest about the end of this month, so unless the appointment can be fixed some time next week, I would like it postponed until towards the middle or end of September.

"Kindly let me know.

"Yours truly,

"E. B. OSLER."

20 and on 17th August the Minister replied as follows:—

"Ottawa, 17th Aug., 1897.

"Dear Sir:—

"RE QU'APPELLE & LONG LAKE LAND GRANT.

"I have yours of the 16th inst. regarding the above matter. I am leaving the City in a few days and will be absent about a month, so that I am afraid I will not be able to make an appointment until towards the middle of September. If you would kindly write me later on, I will then be in a position to fix upon a day. In the meantime the officers of the Department are at work over the question.

"Yours faithfully,

"CLIFFORD SIFTON.

"E. B. OSLER, Esq.,

"Toronto."

80. No further communication having been received from the Minister or his Department the solicitors of your Petitioners on 20th December, 1897, wrote to the Minister as follows:—

"Dec. 20th, 1897.

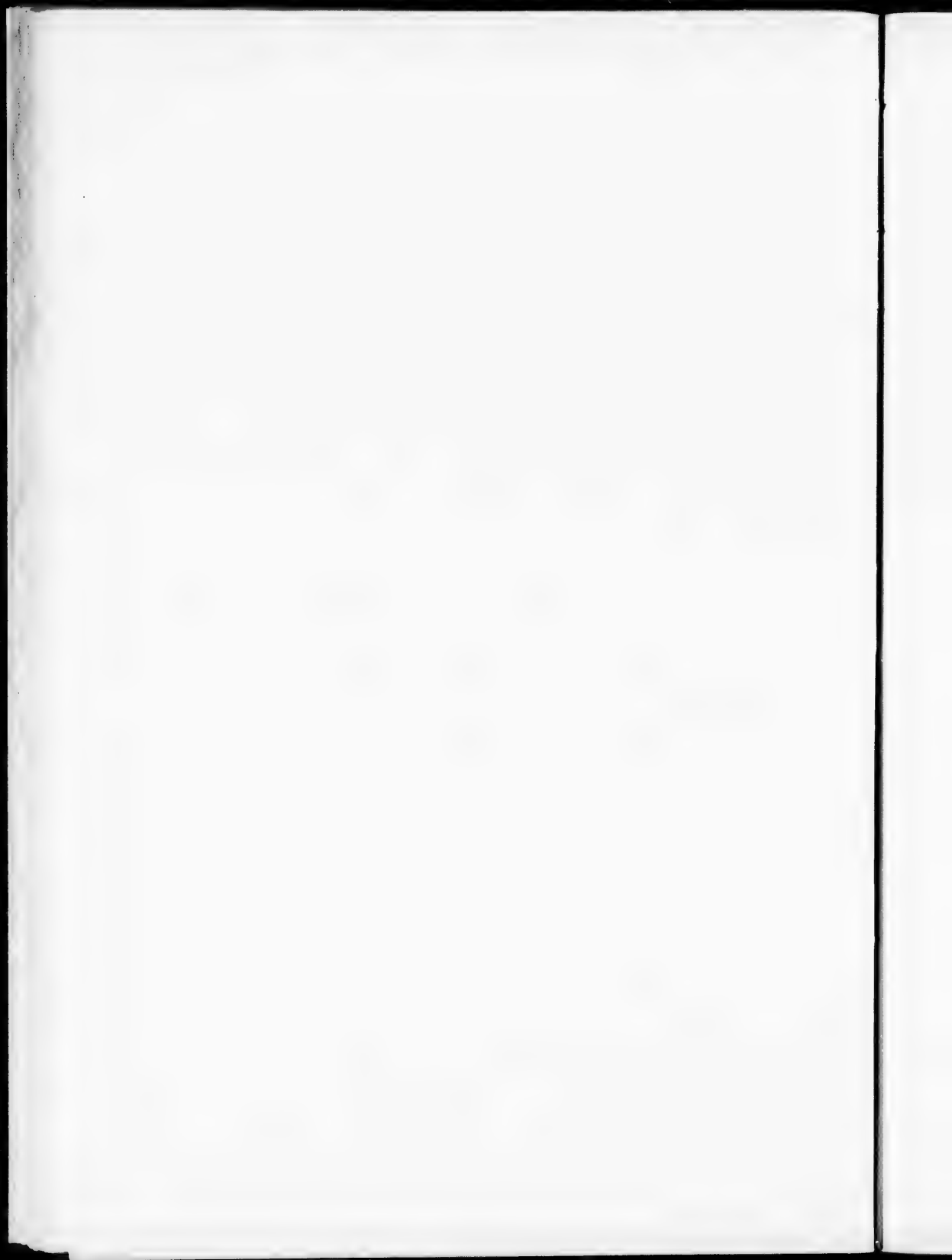
"The Honourable Clifford Sifton,

"Minister of the Interior,

"Ottawa.

"Sir:—

"On 19th July, 1895, we had the honour of opening up correspondence with your predecessor, the Honourable Mr. Daly, on behalf of the Qu'Appelle, Long



"Lake & Saskatchewan Railroad & Steamboat Company and also on behalf of the various parties interested in the land grant of that Company, including the English investors, and for some considerable time after that date a correspondence took place between us and the Minister and Deputy Minister of the Interior on the subject of our letter.

"We also had several interviews with Mr. Burgess at Ottawa, with Mr. E. B. Osler, M.P., who is largely interested in the Company and through whom the instructions were received by us.

10 "Our object was to procure from the Government of Canada the Land Grant to which the Railway Company was entitled pursuant to the several Orders-in-Council in that behalf, or, in the alternative, a cash compensation if the Government was unable or unwilling to give the Land Grant to which the Company, according to the advice given to them by us, was and is entitled.

"We have no doubt that all the correspondence is on file in your Department and can be referred to without difficulty if necessary.

"When the late Government went out of power the question had not been dealt with or, if dealt with, the decision of the Government had not been communicated to us.

20 "After the formation of the present Government our clients instructed us to press their claims; but for various reasons, amongst others the delay in filling the office now held by you, the sitting of the Dominion Parliament, your own absence for a lengthy period, the matter was left in abeyance. We were, however, informed by Mr. E. B. Osler that he had mentioned to you the position of matters and that you had promised to take them into consideration at your earliest leisure.

"The subject has come up again for consideration and we are asked to press upon you the consideration of this Company's position.

30 "We have no doubt that this matter has been considered by you and it may be that you have made up your mind what course to take in connection with this claim. We now write for the purpose of ascertaining if the question has been dealt with by you and, if so, to be informed of your decision, and, if it has not been so dealt with, we beg to ask that you will give it your earliest consideration.

"We have the honour to be,

Sir,

"Your obedient servants,

"McCARTHY, OSLER, HOSKIN & CREELMAN."

81. The Honourable the Minister of the Interior replied to the said letter on 21st December saying that he could say nothing definite at present but expected to be able 40 to deal with the matter in a couple of weeks.

82. On 31st January and 3rd March, 1898, personal interviews took place between the Minister and Counsel for the Petitioners, when the whole question at issue was discussed, and on the 7th April the solicitors for the Petitioners wrote to the Minister as follows:—

"Hon. Clifford Sifton,
"Minister of the Interior,
"Ottawa.

"April 7th, 1898.

"Sir:—

"We have the honour of again addressing you on behalf of the Qu'Appelle,
"Long Lake & Saskatchewan Railroad & Steamboat Company, and of the various
"parties interested in the Land Grant of that Company, including the Eng-
"lish bondholders, in reference to the subject of the Land Grant to which that
10 "Company is entitled under the various Orders-in-Council relating thereto.

"The English bondholders are becoming very restive in view of the long de-
"lay that has been allowed to occur, and they are urging us to bring matters to a
"close at an early date, and it is in response to the pressure which is being
"brought to bear upon us from the other side of the Atlantic that we feel con-
"strained to again bring this matter before you.

"We had the honour to address you on this subject by letter on 20th Decem-
"ber last, and upon referring to this letter and to the various communications
"from us to your predecessor, the Hon. Mr. Daly, you will gather the views
"which we then and still have about this question.

20 "On 31st January last our Mr. Creelman in company of Mr. H. C. Hammond,
"of this city, the President of the Company, interviewed you and discussed this
"matter with you at the Queen's Hotel in this city, and on that occasion you
"gave us to understand that the matter would receive your early attention.

"On 3rd March ult. our Mr. Creelman had a short interview with you in
"Ottawa, when the matter was further discussed, and you then intimated that
"you hoped to be able to give your consideration to the subject during the follow-
"ing weeks; but up to date we have not had the pleasure of hearing from you as
"to what course you have decided to take.

30 "Mr. A. M. Nanton, Broker, Winnipeg, who represents a large number of the
"English investors in this Railway, desires to take part with us in a further in-
"terview with you in reference to this land grant, and he has communicated
"with us for the purpose of ascertaining when the matter will be discussed and
"suggesting a very early date.

"We now beg to say that we would be glad if you will afford an early oppor-
"tunity of hearing our Mr. Creelman, Mr. E. B. Osler and Mr. Nanton on the
"subject of this Land Grant.

"Will you have the goodness to inform us if an early appointment can be
"made with you in this matter.

40 "We have the honour to request that you will favor us with an early reply
"fixing a date (if possible next week) upon which we may be able to meet you.

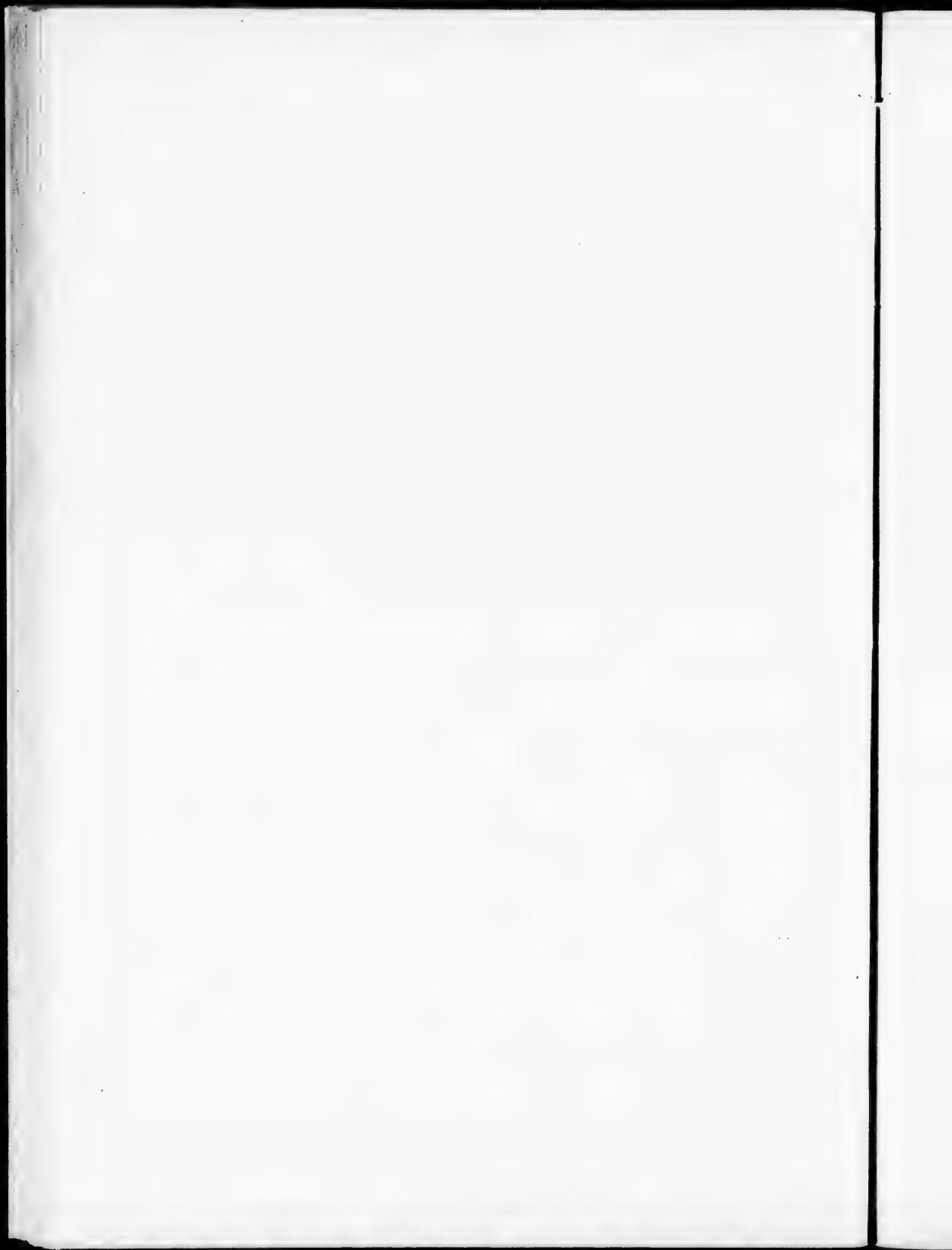
"We have the honour to be,

"Sir,

"Your obedient servants,

"McCARTHY, OSLER, HOSKIN & CREELMAN."

83. On 11th April the last mentioned letter was duly acknowledged by the Acting



Deputy Minister, who in his letter promised that the matter would be gone into immediately and that the solicitors would be fully advised at an early date.

84. On 18th May, 1898, a long conference took place at Ottawa between the Minister and Counsel for and other representatives of your Petitioners, when the claim of your Petitioners to the said Land Grant was again strongly urged and the position of your Petitioners fully discussed and an early reply was promised by the Minister. No reply having been received the solicitors for your Petitioners wrote to the Minister as follows:—

" June 21st, 1898.

10

" *The Honourable Clifford Sifton,*
" *Minister of the Interior,*
" *Ottawa.*

" Sir:—

" We have the honour again to remind you of the interview held in your office at Ottawa, on 18th ult., when the Qu'Appelle, Long Lake & Saskatchewan Railway Company was represented by Mr. E. B. Osler, Mr. A. M. Nanton and our Mr. Creelman, and to the various interviews and correspondence preceding this interview.

20

" At the interview of the 18th the claims of the Railway to the early delivery of its Land Grant by the Dominion Government were strenuously urged by the representatives of the Company and you promised that the matter would receive immediate attention at your hands.

" You intimated then that you would not await the prorogation of Parliament to take the matter up but would do so during the sittings of Parliament and we hoped to have before this date received some assurance from you that the Company would receive its Land Grant at an early date.

30

" Our English correspondents, who represent the holders of the whole or very nearly the whole of the Bond issue of the Company, are becoming very impatient of late, and we therefore again beg that you will take the matter into consideration and give us your final answer.

" As Mr. Creelman intimated to you on his several interviews with you and as you will find upon referring to the correspondence we have formed a very strong opinion in favour of the right of the Company to enforce its claims through the Exchequer Court to this Land Grant, or to payment of a money compensation in lieu thereof if the Land Grant cannot now be made, and if we are not able to procure from you at a very early date a definite assurance that this land will be granted to the Company we shall feel ourselves compelled under the instructions which we now have to file a Petition of Right to have the claim of the Company determined.

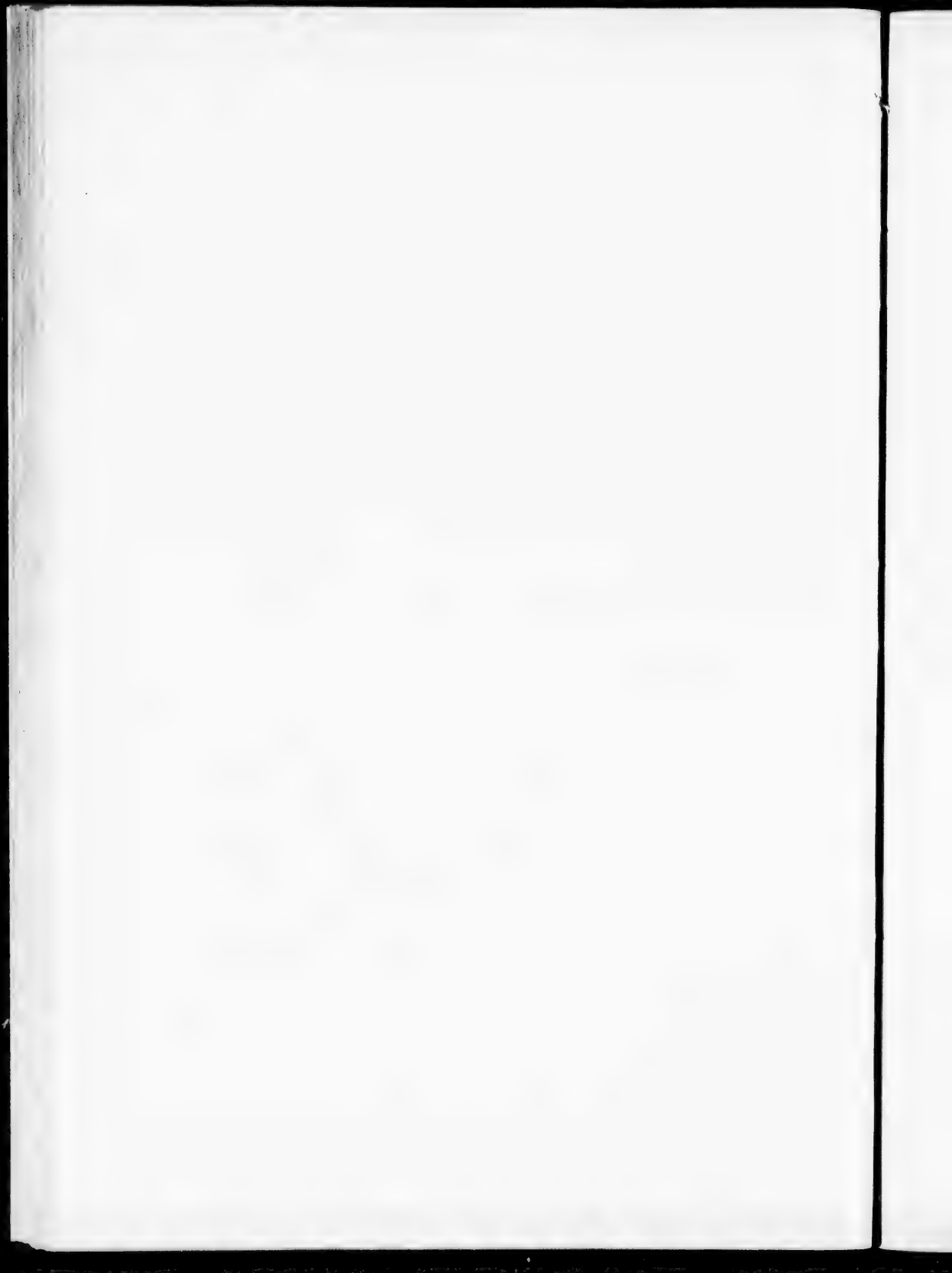
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" We have the honour to be,

" Sir,

" Your obedient servants,

" McCARTHY, OSLER, HOSKIN & CREELMAN."



85. On 28th June the Secretary of the Department acknowledged the last mentioned letter and stated that the Minister would give the matter his immediate attention.

86. No further communication having been received from the Minister the solicitors for your Petitioners on 6th October, 1898, wrote to him as follows:

Oct. 6th., 1898.

"Hon. Clifford Sifton,
"Minister of the Interior,
"Ottawa.

10 "Sir:—

"We have the honour to again address you on behalf of the Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamship Company and also of the various other parties interested in the Land Grant of that Company and to call your attention to the long correspondence that has taken place on the subject of that Land Grant.

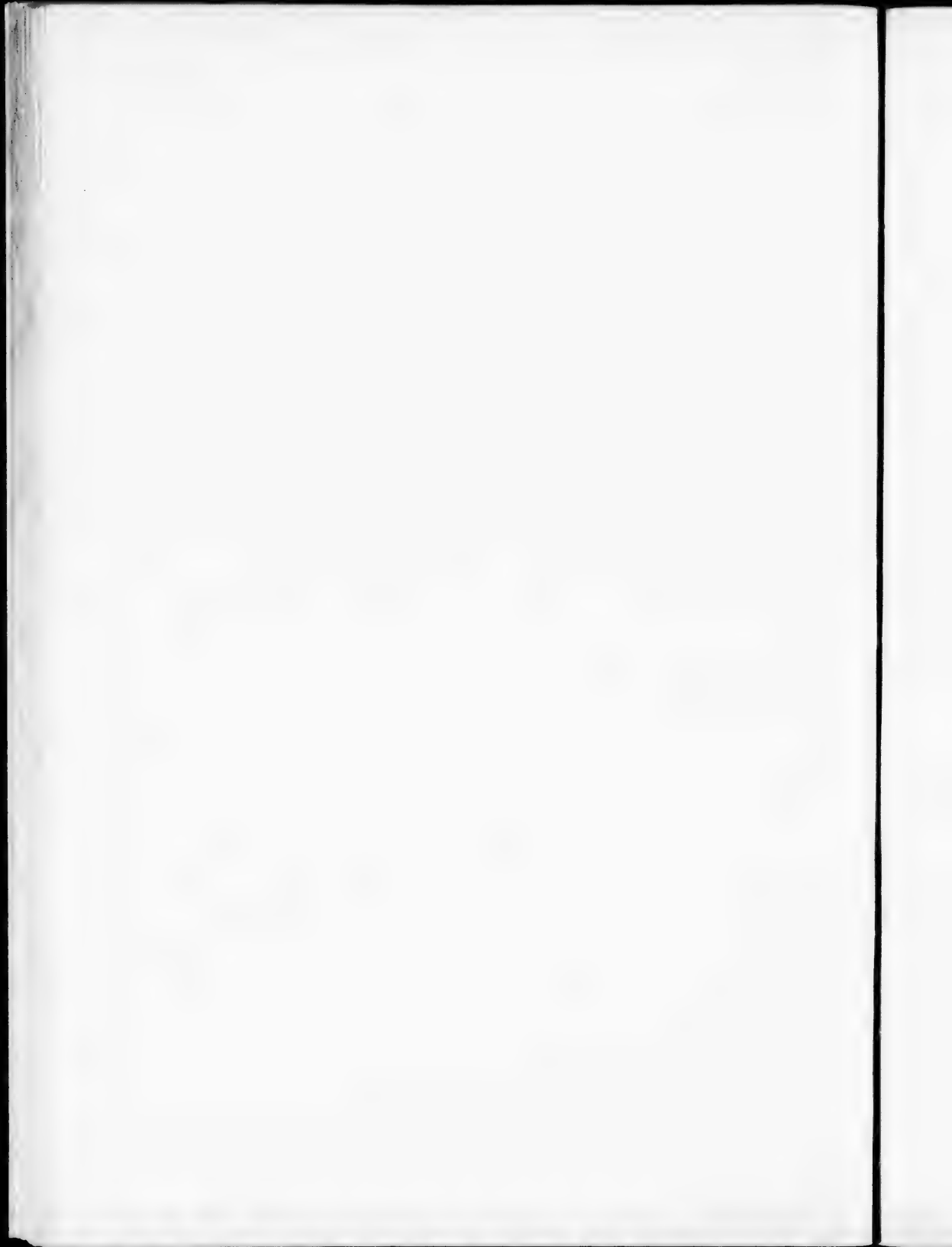
20 "A very urgent letter has just been received from the Representatives in England of the English bondholders and very peremptory instructions have been given to us by them to lose no time in pressing for a settlement with your Department of the outstanding questions in connection with this grant and to take such steps as are open to the Company and the other parties interested to assert their claims in the Exchequer Court if no other solution can be arrived at.

30 "Our instructions in connection with these matters were originally received in May, 1895, and after a very careful perusal of the various Orders-in-Council and the Reports and correspondence which have taken place in connection with this grant, being the material on file in your Department, we advised that the Dominion Government had not given and could not give any good reason for not setting apart the land at its disposal to meet the obligations of the Orders-in-Council in that behalf and was legally bound to provide the lands or money compensation in lieu thereof.

"On 19th July, 1895, we opened up communication with your Department on the subject of this claim and ever since that time we have at intervals pressed upon the Department the claims of our clients to get the land earned by the Railway Company or to be compensated therefor.

"We do not propose to set forth at length the contents of our correspondence with the late Minister of the Interior and yourself, but will ask you to refer to the same and to the various memoranda made by yourself at our interviews with you.

40 "This Railway was completed to the satisfaction of the Government more than eight years ago, and on 7th November, 1890, it was by Order-in-Council accepted by the Government and immediately thereupon the Company became entitled to the land which had been granted to the Company by the Order-in-Council of 20th June, 1887, conditional upon the completion of the road to the satisfaction of the Government.



"The total mileage of the Railway as fixed by the Government is 253.96 miles and the total Land Grant to which the Company became entitled at 6,400 acres per mile was therefore 1,625,344 acres.

"The Company has received its Land Grant for the first 20 miles, viz., 128,000 acres.

"In addition to the lands just referred to the Company has accepted lands to the extent of 221,336.96 acres and has either received the same or has made application therefor.

"The acreage now claimed by our clients is therefore 1,273,007.4 acres

10 "By an agreement dated 5th August, 1889, the Government is entitled to retain one-third of the land grant by way of indemnity in case the amount earned by the Company for the service referred to in that agreement does not amount to the sum paid by the Government to the Company therefor.

"This agreement further provides that the Government shall issue to the Company patents for the remaining two-thirds of the whole land grant.

"We regret to have to admit that no progress whatever has been made towards procuring Patents for these lands since the matter was placed in our hands in May, 1895.

20 "We had a very great deal of correspondence on the subject with your Department and during the latter part of 1895 and the early part of 1896 we had numerous interviews with the Hon. Mr. Daly and Mr. Burgess and were from time to time given promises that our application would receive attention, but up to the change of Government we were unable to procure any settlement and there the matter rested until you assumed charge of the Department of the Interior.

30 "In a letter dated 3rd October, 1895, and received by us from the Secretary of the Department of the Interior, we were informed that the Honourable the Minister of Justice had advised the Interior Department that if there was an irreconcilable difference between the Company and the Department as to the granting of land on the tracts already set apart by Order-in-Council, which is available for the Company's Land Grant as being fairly fit for settlement, he was of opinion that there was no other course open to the Government than to leave the Company to assert its claims in the Courts.

"The suggestion was thrown out that the Government and the Company might agree upon some referee whose decision as to the fitness of each parcel tendered by the Department would be final.

40 "In our reply of 14th October, we expressed the perfect willingness of our clients to leave the matter to a referee, but expressed the opinion that before a referee was appointed we should endeavour to agree upon the meaning of the expression 'lands fairly fit for settlement,' so as to be able to furnish to the referee a definition of that term satisfactory to all concerned.

"The Minister at that time promised to furnish us with his views on this subject, but never did so.

"We opened up communication with you on 20th December last, and have since had several interviews with you on the subject.

"One of these, you may remember, took place on 31st January last, at the Queen's Hotel, Toronto, and one at Ottawa on 3rd March.

"In letters from your Department of 11th April last and 28th June, we were promised early consideration on your part of our application, but have not yet been favoured with the result.

"Our instructions now leave us no alternative but to press for a settlement of this question without further delay and, if unsuccessful, to institute proceedings in the Exchequer Court to have the Company's rights ascertained and secured.

10 "If you think that the differences between the Department and the Company are irreconcilable, we might just as well commence our proceedings without delay, and have the matter disposed of in the Courts.

"We shall, however, do nothing further until we receive a reply to this communication, and we beg to express the hope that you may be able to propose some solution of the difficulty, and provide some satisfactory method by which our clients will obtain these lands without being driven to the Courts for relief.

"We beg to request that you will favour us with an early reply.

"We have the honour to be,

"Sir,

"Your obedient servants,

"McCARTHY, OSLER, HOSKIN & CREELMAN."

20 87. On 12th October the Secretary of the Department acknowledged the last mentioned letter and stated that the Minister expected to communicate with the solicitors on the subject very shortly, and on the 13th October the solicitors for your Petitioners wrote to the Secretary as follows:—

"Oct. 13th, 1898.

"The Secretary, Department of the Interior,

"Ottawa.

"Sir:—

30 "We are only duly favoured with your letter of yesterday acknowledging the receipt at your Department of our letter of 6th inst. with regard to the Land Grant "The Qu'Appelle, Long Lake and Saskatchewan Railway & Steamboat Company "and stating that the matter is now before the Minister, who expects to be able "to communicate with us on the subject very shortly.

"We beg to thank you for this letter and to state that we sincerely trust that the Minister will give this matter his earliest and best attention and we hope to receive the result of his deliberations at a very early day.

"We have this morning communicated the contents of your letter to our clients and have assured them that the matter is now receiving attention.

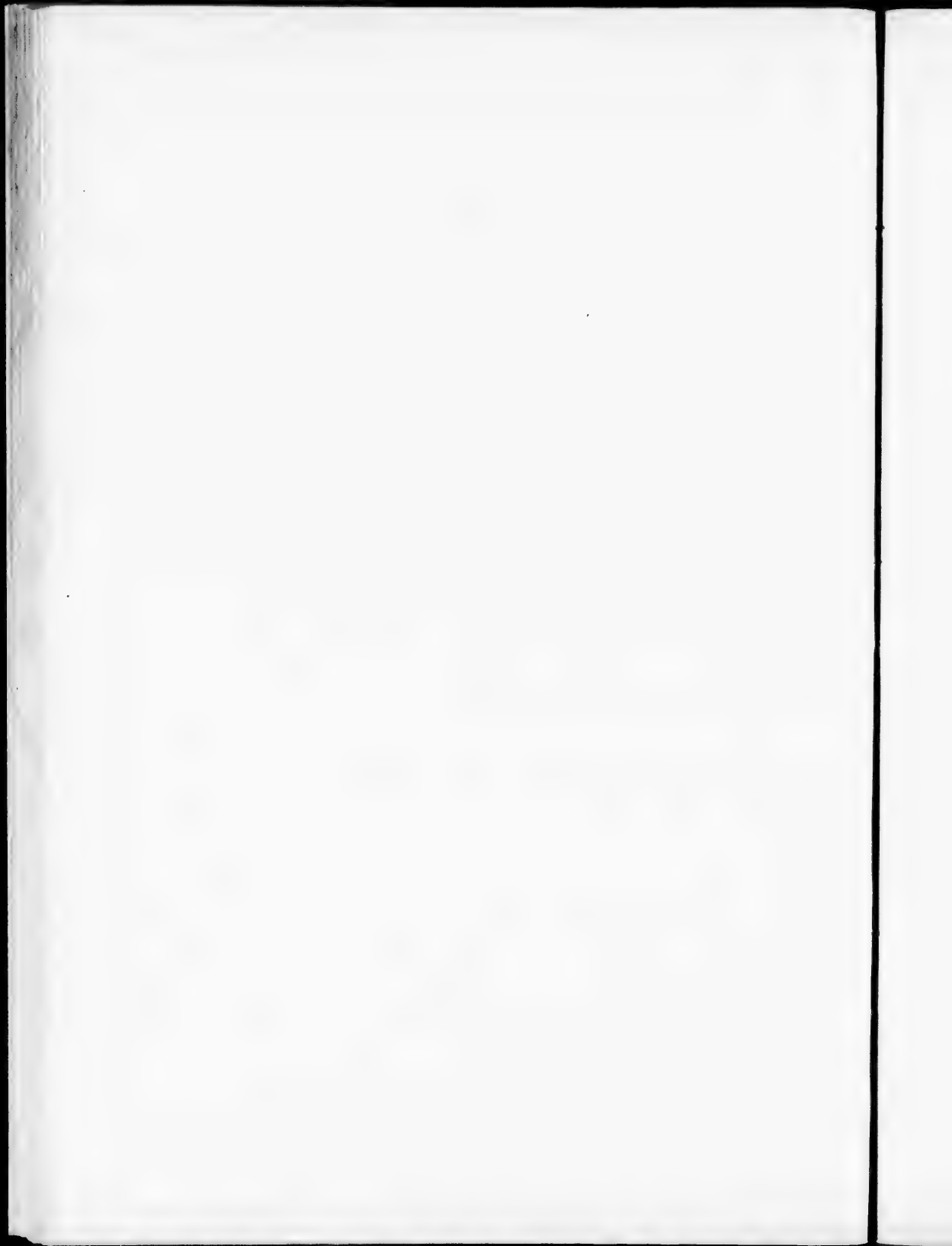
"We have the honour to be,

"Sir,

"Your obedient servants,

40 "McCARTHY, OSLER, HOSKIN & CREELMAN "

88. On 10th November, 1898, the solicitors for your Petitioners wrote again to the Minister as follows:—



" Nov. 10th, 1898.

" Hon. Clifford Sifton,
" Minister of the Interior,
" Ottawa.

" Sir:—

" On the 6th ult. we had the honour of addressing you on behalf of the
" Qu'Appelle, Long Lake & Saskatchewan Railroad & Steamboat Company and
" other parties in reference to the claim for Land Grant or compensation therefor.

10

" We in due course received letter from your Department dated 12th ult.,
" stating that the matter is now before you and that you expect to be able to com-
" municate with us very shortly on the subject.

" Since the receipt of this letter, nearly a month ago, we have had no com-
" munication from your Department.

" We beg now to ask that you will inform us what course you intend to take
" in connection with the subject matter of our letter.

" We have the honour to be,

" Sir,

" Your obedient servants,

" MCCARTHY, OSLER, HOSKIN & CREELMAN."

20 and on 11th November, the Minister replied as follows:—

" PERSONAL.

" Ottawa, 11th November, 1898.

" Gentlemen:—

" Replying to your letter of the 10th instant on the subject of the Qu'Appelle,
" Long Lake & Saskatchewan Railroad & Steamboat Company, since the letter
" was written to you upon the 12th ultimo I have been giving as much time to
" the consideration of this question as possible. I am not in a position to make
" any definite statement about it yet, but I hope to come to a conclusion within a
" reasonable time.

30

" Yours faithfully,

" CLIFFORD SIFTON.

" MESSRS. MCCARTHY, OSLER, HOSKIN & CREELMAN,
" Freehold Building,
" Victoria Street,
" Toronto, Ont."

89. On 26th November, 1898, the Minister wrote to your Petitioners' solicitors the following letter:—

" Ottawa, 26th November, 1898.

" Gentlemen :—

" I have carefully gone through the papers connected with the land grant to the Qu'Appelle, Long Lake and Saskatchewan Railway and Steamboat Company.

10 " I see no reason whatever why there should be any litigation between the Company and the Government. The decision as to the quality of land by Court would in all probability be extremely unsatisfactory, and could only be arrived at by some method which would be equally open to the Government and the Company to adopt. I suggest first that the Government and the Company agree upon an arbitrator, or arbitrators, to decide upon the question of the quality of the land; 2nd, that the Company should indicate to the Government what land they wish to have reserved to make up any possible deficiency.

" I wish to call your attention to the fact that on some of the reserves of the Canadian Pacific Railway Company there is certain to be released as soon as the Company has completed its selections a large quantity of land of very good quality. It might be that your Company would desire to have the first right to such land. I intend to make every effort to get the Canadian Pacific Railway Company to complete its selections as soon as possible.

20 " I am leaving for the West next week. I will be in the city until Thursday and will on Thursday be more free to meet your representative than at any other time. I would suggest that in order that the matter may not be thrown over until my return from the West you should consider this letter and meet me on Thursday for the purpose of endeavouring to arrive at an arrangement.

" I am, Gentlemen,

" Your obedient servant,

" CLIFFORD SIFTON.

" MESSRS. MCCARTHY, OSLER, HOSKIN & CREELMAN,

" Barristers, etc.

" Toronto, Ont."

30 90. On the 28th November a conference took place at Ottawa between the Minister and Counsel and other representatives of your Petitioners, when the whole question at issue was fully discussed. The result is set forth in the following letters which subsequently passed between the Minister and Mr. Creelman representing your Petitioners. The letter to the Minister was as follows :—

" Dec. 15th, 1898.

" HON. CLIFFORD SIFTON,

" Minister of the Interior,

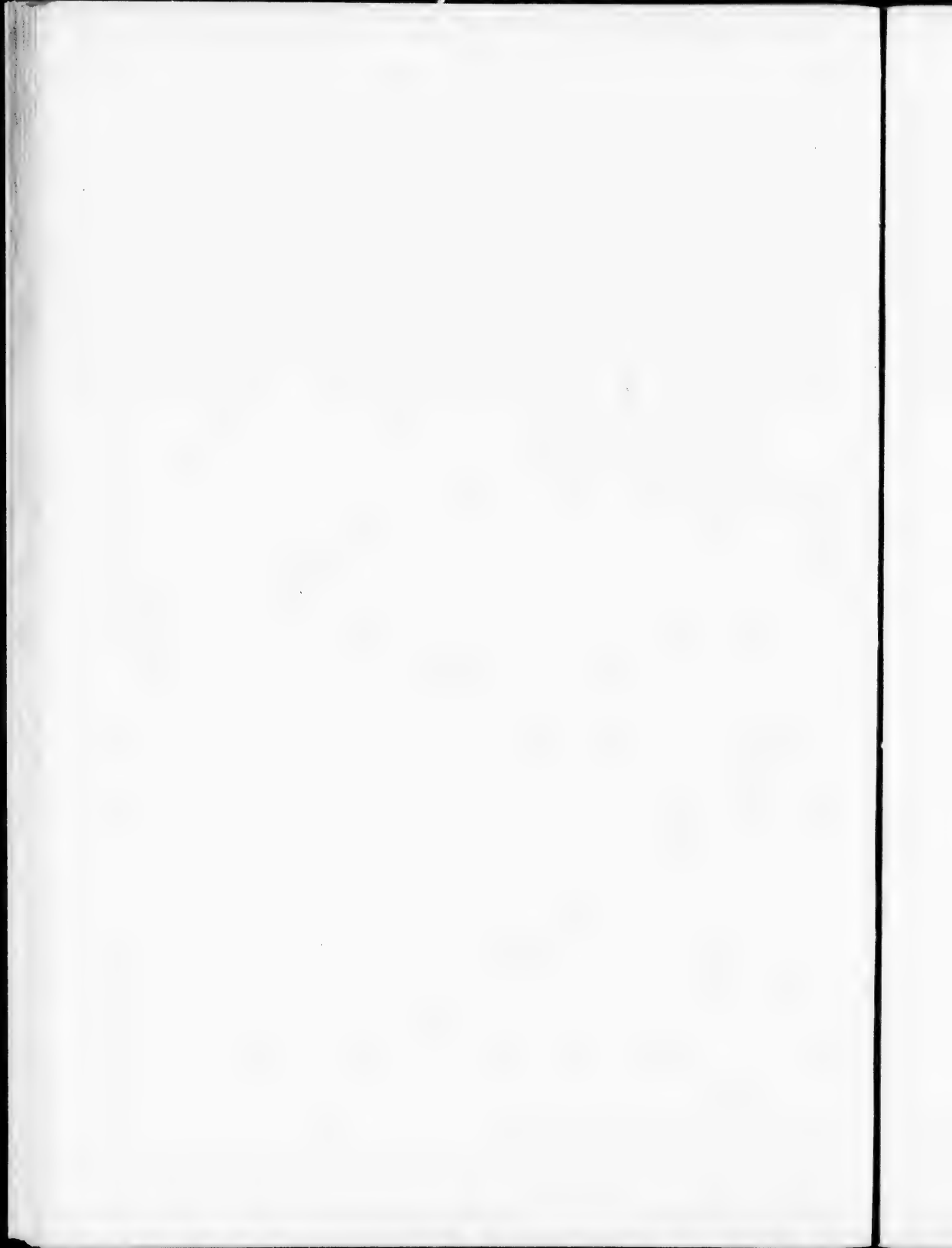
" Ottawa,

" Ontario.

40 " Sir :—

" RE THE QU'APPELLE, LONG LAKE & SASKATCHEWAN RAILWAY
" COMPANY LAND GRANT.

" I have the honour to say that, as promised, I beg to put in writing my



" understanding of what took place at the interview between yourself, Mr. A. M. Nanton and the writer at Ottawa on the 28th ult.

" I informed you that my firm had received positive instructions to take legal proceedings against the Government unless the Company's claims were adjusted without further delay.

" In reply you informed us that you did not see that any advantage could be gained by placing the claims in suit and that you were anxious to come to an amicable settlement and that you would take the matter up immediately and see that no further delays took place.

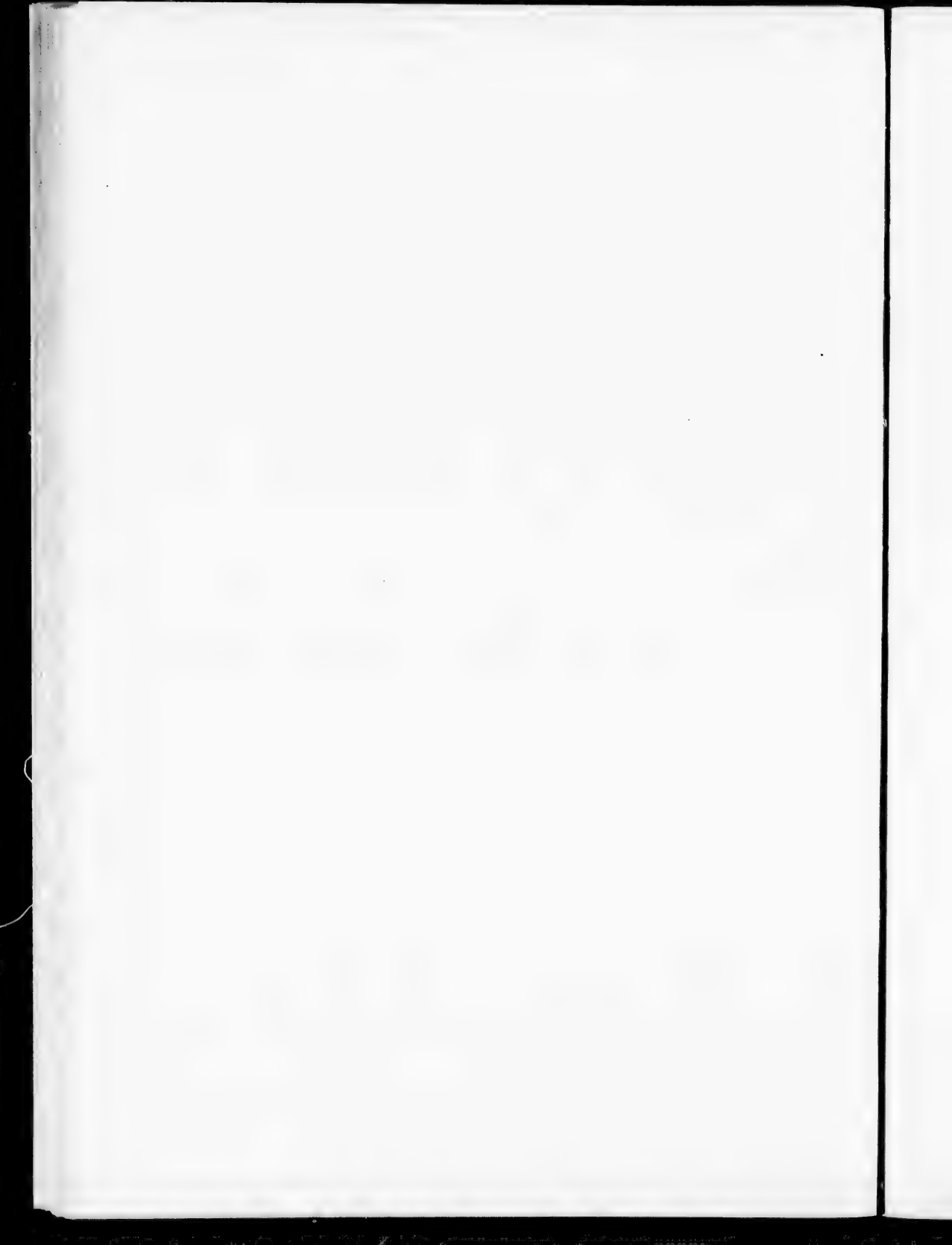
10 " With a view of reaching a settlement, you promised that you would without delay instruct Mr. Pearce to come to Ottawa, stating that he could reach there about the 1st of January next, and examine the records of the Department and prepare a map showing what lands are at the present time free and available for the purposes of this Company's land grant.

20 " You stated that if Mr. Pearce after such examination finds lands free and available he is to classify them into districts and prepare maps showing where such lands as he considers fairly fit for settlement, which could be reasonably offered to this Company for the purposes of its land grant, are situated, and that as soon as Mr. Pearce has prepared such maps I am to be notified and furnished with a copy of same, that if Mr. Pearce finds there are any lands free and available for the purposes of this Company's land grant, that he is not familiar with but is under the impression that it is good and fairly fit for settlement, he is to make a general inspection of same as soon as it is possible in the spring with a view of satisfying himself that said lands are such that they could be reasonably offered to this Company.

30 " It was then agreed between us that a proper definition of the expression 'lands fairly fit for settlement' is, that each quarter section should consist of soil of such a nature, and be so located and situated in a district that a man can make a reasonable living for himself and his family off such quarter section (without the use of adjoining lands) by ordinary work and industry.

40 " It having been pointed out to you that there would be no use delaying matters, or in Mr. Pearce making the above mentioned examination of the Department's records, with a view of ascertaining what lands the Government had to offer to the Company, unless he had first received instructions, approved of by me, clearly defining the nature and character of the land that would be considered fairly fit for settlement, you requested me to state in writing my understanding of what took place at the interview, so that you could reply to me agreeing with same or, if you differed from me, setting out the points of difference.

" Will you permit me to add to the foregoing, that since our interview in Ottawa, the representatives here of the English bond-holders have received a letter from the representatives in England, who had been apprised of my proposed visit to Ottawa and of its object. He expressed the satisfaction of the bond-holders to learn that at last we had determined upon a definite course of action, and intended following it promptly and firmly. We were assured in this letter that the English bond-holders were feeling very keenly the treatment



"that had been given to the Company, and indirectly to them, by the Government of Canada by keeping them so long out of their land. I hope that I shall very soon be able to assure these gentlemen that something has been done in their interests.

"I have the honour to request that you will kindly let me have an early reply to this communication.

"I have the honour to be,

"Sir,

"Your obedient servant,

"A. R. CREELMAN."

10

The reply of the Minister was as follows:—

"Ottawa, 5th January, 1899.

"Sir:—

RE THE QU'APPELLE, LONG LAKE & SASKATCHEWAN RAILWAY COMPANY'S
LAND GRANT.

20

"I have the honour to acknowledge the receipt of your letter of the 15th ultimo on the above subject, and in reply beg to say that it seems to represent fairly what took place at the interview between yourself, Mr. Nanton and myself, on the 20th of November, with the exception of the definition of the expression 'lands fairly fit for settlement.' You will notice that on page two of your letter, you stated that your understanding of this expression was 'that each quarter section should consist of soil of such a nature, and be so located and situated in a district, that a man can make a reasonable living for himself and his family off such quarter section, without the use of adjoining lands, by ordinary work and industry.' The portion of this definition to which I take exception is found in the following words, 'and to be so located and situated in a district.' I could not agree that the question of the fitness of lands for settlement should be allowed to rest upon the location, except in so far as the location affects climate. I would be prepared to put the definition in the following words, '*Lands fairly fit for settlement shall be held to mean that each quarter section shall, as respects soil and climate, be of such a nature that a man can make a reasonable living for himself and his family off such quarter section, without the use of adjoining lands, by ordinary work and industry.*'

30

"As you say in your letter, I agreed to instruct Mr. Pearce to come down. I have done so, but find that the work at which he is at present engaged will take him about ten days longer to complete. Immediately upon the completion of his present work at Revelstoke, he will come to Ottawa, and proceed with the work laid out for him in connection with your Company's Land Grant.

"I have the honour to be,

"Sir,

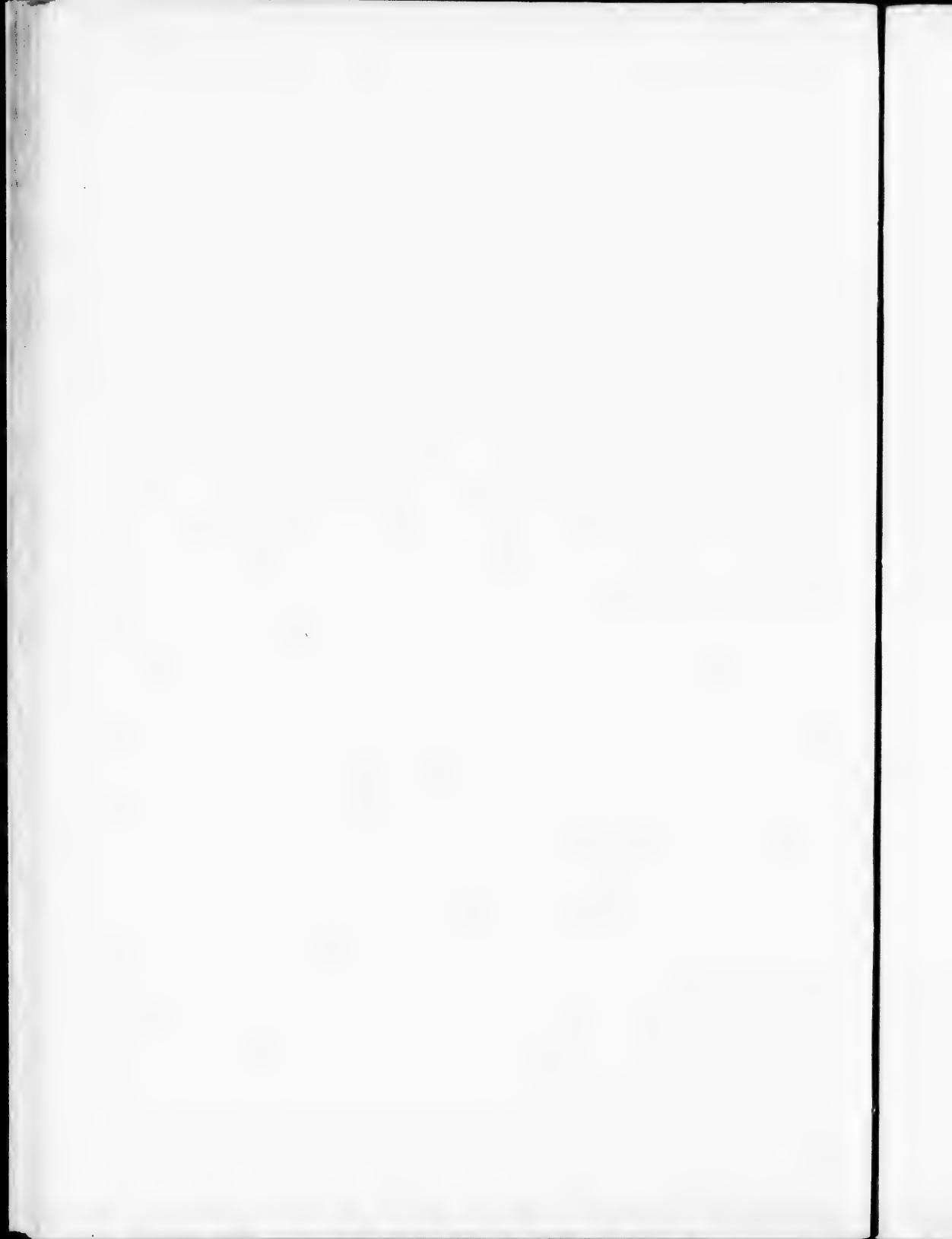
"Your obedient servant,

"CLIFFORD SIFTON.

40

"A. R. CREELMAN, Esq., Q.C.,

"Toronto, Ont."



In answer to the last mentioned letter Mr. Creelman wrote the Minister as follows:—

" Jan. 12th, 1899.

" *Hon. Clifford Sifton,*
" *Minister of the Interior,*
" *Ottawa.*

" Sir:—

" RE THE QU'APPELLE, LONG LAKE & SASKATCHEWAN RAILROAD &
" STEAMBOAT CO. LAND GRANT.

10 " I have the honour to acknowledge your letter of 5th inst., in reference to
" this Land Grant, and on behalf of the Company, as well as on my own behalf, I
" beg to thank you therefor.

" With reference to the definition of the expression 'lands fairly fit for
" settlement,' I beg to say that I have very carefully compared the definition as
" drafted by me with that agreed to by yourself, and although I still think that
" the Company is entitled to a more liberal definition than the latter yet I am
" free to admit that on the whole the definition which you are prepared to accept
" and as stated in the second page of your letter is not an unreasonable one, and
" I think fairly meets the situation.

20 " I have to-day discussed the matter with the Board of the Company and I
" am instructed to say that your definition is accepted and I will assume that
" when Mr. Pearce receives the instructions which are to be given to him by you
" to proceed with the work laid out for him in connection with this Land Grant
" his instructions will include this definition as a matter of agreement between
" yourself and the Company.

" I beg again to say that the Company fully appreciates the care and consid-
" eration which you have given to this subject and I beg to express the hope that
" the necessary instructions will be given to Mr. Pearce at a very early date so
" that the work may be proceeded with and the lands set apart early in the
30 " approaching spring season.

" I have the honour to be, Sir,

" Your obedient servant,

A. R. CREELMAN."

91. On the 13th January, 1899, the Minister wrote to Mr. Creelman saying that
Mr. Pearce was under instructions to come to Ottawa and would be there in a few days
when he would get his instructions and the work would be pressed forward at once.

92. On the 14th January Mr. Creelman wrote to the Minister as follows:—

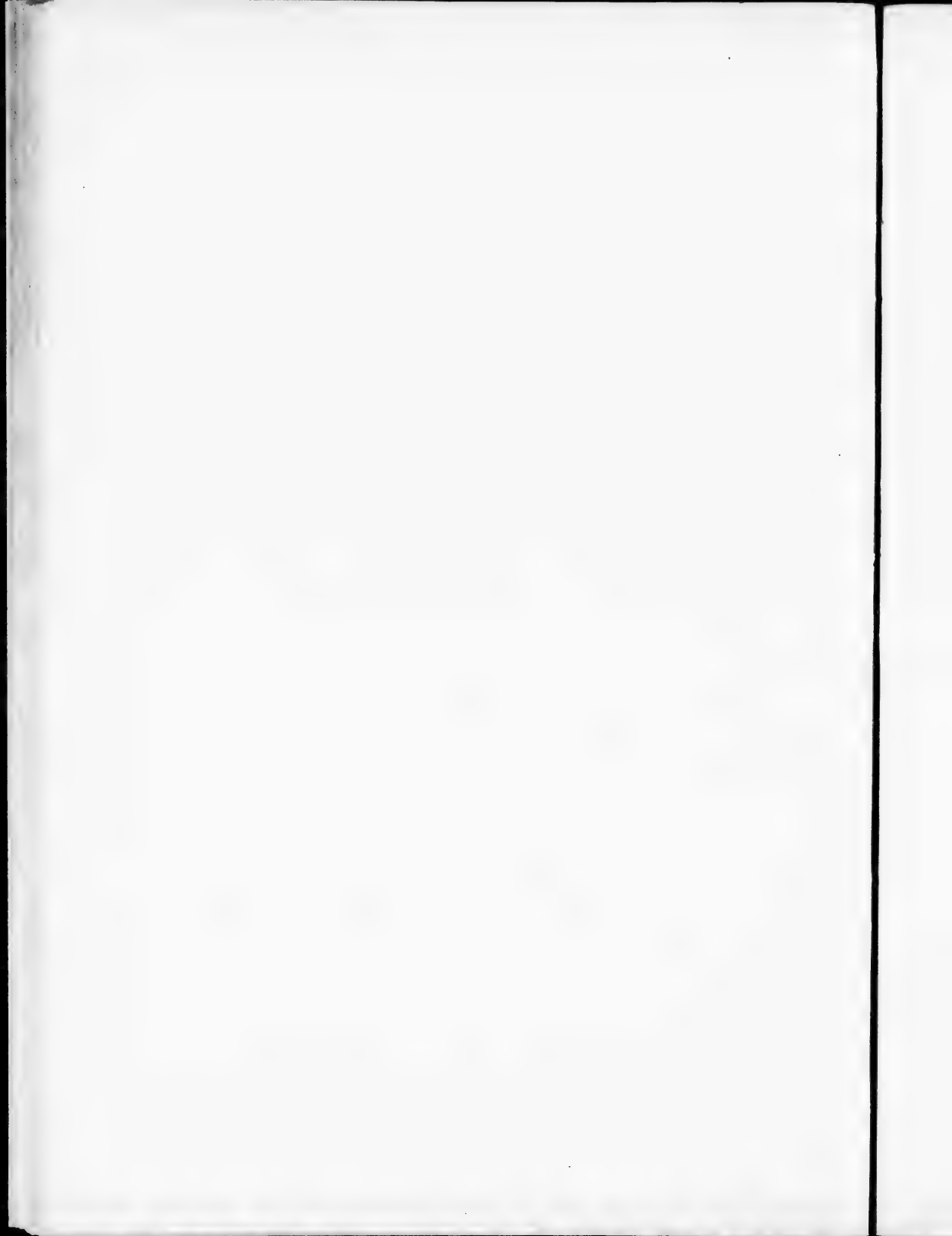
" Jan. 14th, 1899.

40 " *Hon. Clifford Sifton,*
" *Minister of the Interior,*
" *Ottawa.*

" My dear Mr. Sifton:—

" RE QU'APPELLE, LONG LAKE AND SASKATCHEWAN RAILWAY COMPANY.

" I am very much obliged for your personal letter of yesterday advising me
" that Mr. Pearce is under instructions to come to Ottawa and that he will be



"there in the course of a few days; also that he will get his instructions without delay and that the work will be pressed forward at once.

"I can assure you that I am greatly pleased to know that this long drawn out matter has at length reached a point where we have made substantial progress.

"I feel quite sure that the arrangement which you have come to will ultimately be found to meet the situation both in the interests of the country and the Company, very much more satisfactorily than if we had gone to Court.

10 "I shall very strongly press upon our clients the obligations under which they lie to you personally for suggesting this mode of solving the difficulty and for carrying it into effect as you have done.

"I have no doubt that Mr. Pearce's work will proceed quite smoothly and satisfactorily and that if it is found that lands are not available to meet this Company's claim some method will be adopted for providing for the deficiency.

"Yours truly,

"(Signed) A. R. CREELMAN."

93. On 11th March, 1899, Mr. Creelman again wrote to the Minister as follows :

" March 11th, 1899.

20 "Hon. Clifford Sifton,

"Minister of the Interior,

"Ottawa.

"Dear Mr. Sifton :

"I have not felt it necessary to trouble you for some time past in connection with the claim of the Qu'Appelle, Long Lake & Saskatchewan Railway Company to its Land Grant.

"On the 13th January last you were good enough to write to me to say that Mr. Pearce was then under instructions to come to Ottawa and would be there in a few days.

30 "You were also good enough to say that he would get his instructions and that the work would be pressed forward at once

"I have not heard anything in this matter since the letter referred to, and as our English clients keep asking how the matter stands I find it necessary to again ask your attention to this matter and to request that you will inform me as to the progress that Mr. Pearce is making in the selection of this Land Grant.

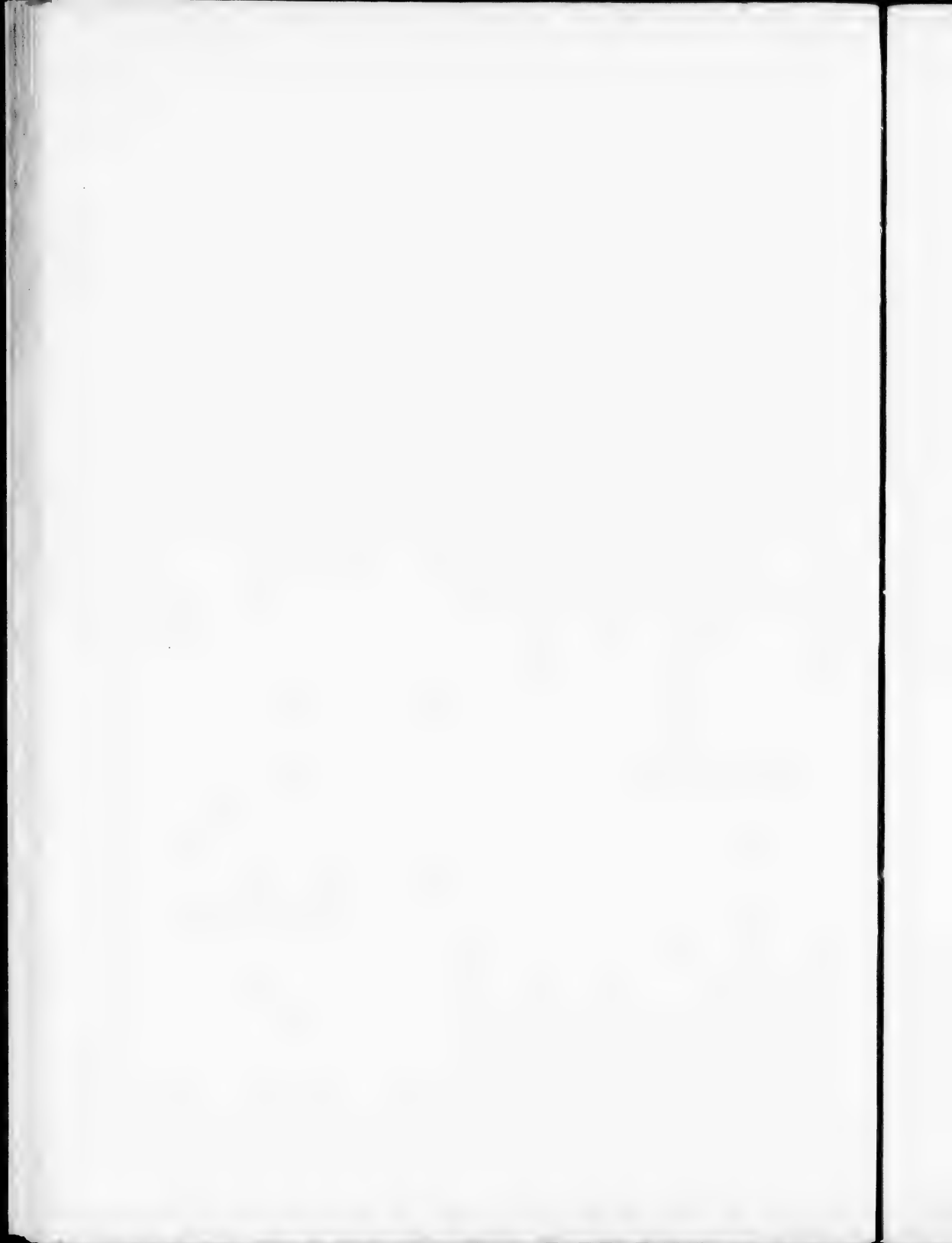
"I shall be greatly obliged if you will at the same time favour me with any information with regard to our claim that may be of importance and which would be useful for the purpose of transmitting to our clients.

40 "I trust that you will favour me with an early reply and that you will be able to inform me that Mr. Pearce has made substantial progress with his work.

"Yours faithfully,

"A. R. CREELMAN."

And on 14th March the Minister replied as follows :—



"Ottawa, 14th March, 1899.

"PERSONAL.

"Dear Mr. Creelman :

"I have your letter of the 11th inst.

"The question of the Qu'Appelle, Long Lake & Saskatchewan Railway Company's Land Grant is under consideration at the present time. Mr. Pearce has been here for some weeks working at the Railway Land Grants and has now prepared his reports. I hope to be able to go through them with him a second time this evening. You will understand that it is next thing to impossible to take up one and deal with it without having in mind the position of the others. I will push the matter forward as rapidly as possible. I may add that I am quite as anxious to get it out of the way as you are.

"Yours faithfully,

"CLIFFORD SIFTON.

"A. R. CREELMAN, ESQ., Q.C.,

"Freehold Building,

"Toronto, Ont.

94. On 19th April Mr. Creelman on behalf of your Petitioners wrote to the Minister as follows :—

20

"April 19th, 1899.

"Hon Clifford Sifton,

"Minister of the Interior,

"Ottawa.

"My dear Mr. Sifton :

"Re QU'APPELLE, LONG LAKE & SASKATCHEWAN RY. CO. LAND GRANT.

"I in due course received your letter of 14th ult., stating that the question of the Land Grant to this Company was under consideration by you at that time and that Mr. Pearce had been with you for some weeks working at the Land Grants and had prepared his reports, which you hoped to be able to go through with him a second time on the evening of the 14th.

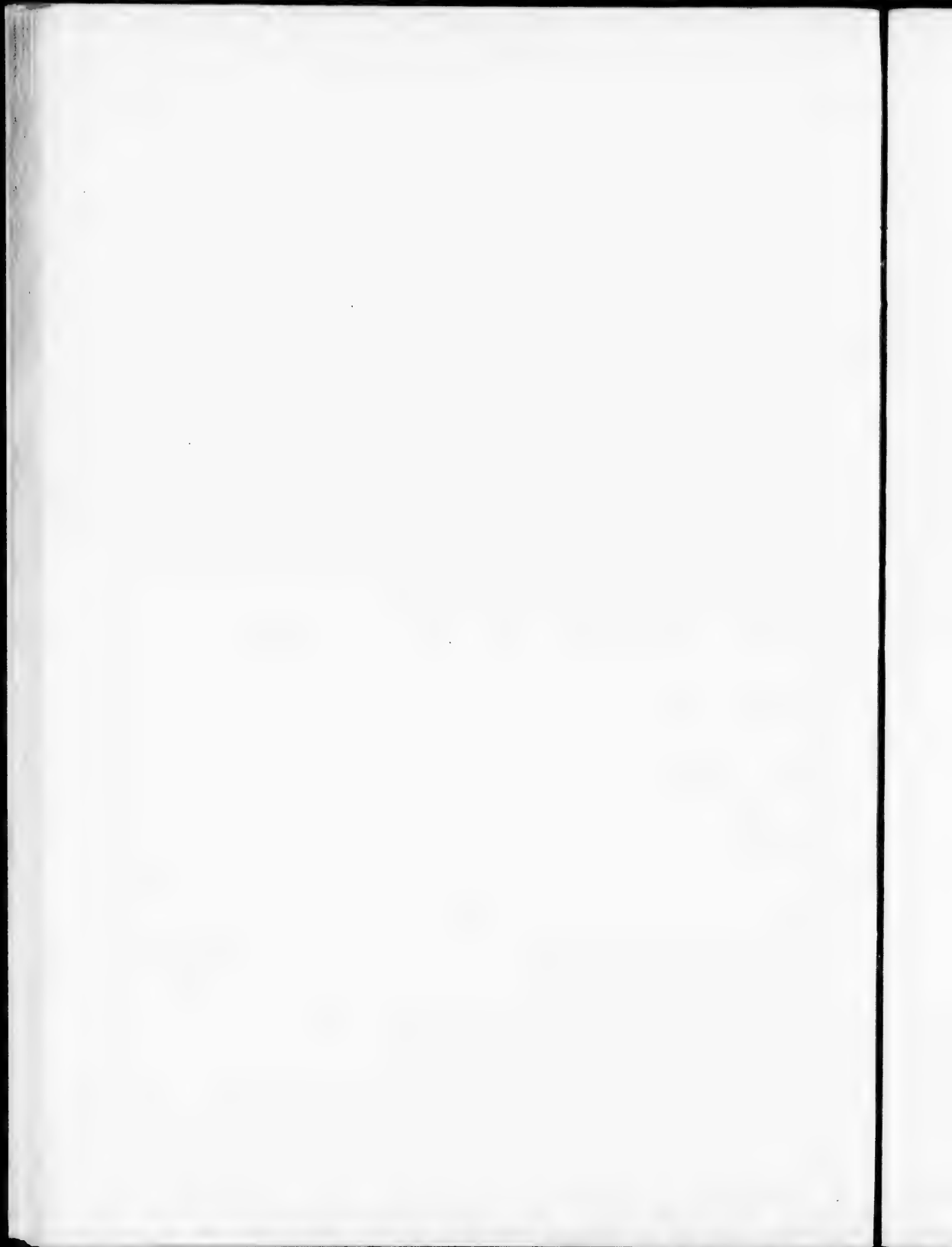
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"In your letter you stated that you would push the matter forward as rapidly as possible. I have not heard anything from you since the receipt by me of this letter on the 16th ult., and I am being pressed by the Board of the Company, who in their turn are being constantly kept under pressure by the representatives of the English bondholders, to again draw your attention to the matter and to request that it be disposed of without further delay.

"I hope that by this time with the information given to you by the report of Mr. Pearce you will have come to some decision as to what course you propose to take with regard to this Land Grant and whether the Company may look forward to receiving these lands at an early date or compensation therefor in money.

40

"I shall take it as a great favour if you will give me some assurance as to



"this so that I may be able to satisfy my clients that they may expect an early settlement.

"I would like very much to have an opportunity of carefully considering the whole situation, and in doing this would find the report of Mr. Pearce as to these lands of great service.

"In view of the understanding between us upon which Mr. Pearce was placed in charge of this work, I presume that you will have no objection to giving me an opportunity of perusing his report. If I am correct in this way I ask you to favour me with a copy for early perusal.

10

"Yours faithfully

"A. R. CREELMAN."

95. On 22nd April the Minister wrote to Mr. Creelman stating that the question of this Land Grant had been gone into very carefully; that he expected to go into it further upon the return of Mr. Pearce, who was then temporarily absent in the West, and that the matter would be pushed forward as rapidly as possible.

96. On the 24th April Mr. Creelman wrote to the Minister in reply to his letter of the 22nd, and requested a copy of the report of Mr. Pearce when completed.

97. Nothing further was done until 3rd June, when Mr. Creelman on behalf of your Petitioners wrote to the Minister as follows:—

20

"June 3rd, 1899.

"HON. CLIFFORD SIFTON,

"Minister of the Interior.

"Ottawa.

"My dear Mr. Sifton:—

"On the 24th April last I had the honour to receive a letter from you in connection with the Qu'Appelle, Long Lake & Saskatchewan Railway Company Land Grant, and in that letter you stated that Mr. Pearce was temporarily absent in the West at the time and that you expected to go into the matter upon his return.

30

"You also stated in your letter that you would push the matter forward as early as possible,

"I have not yet received any communication from you since your letter of ten weeks ago and am being constantly pressed by our clients to bring matters to a head.

"Might I ask you to let me know how the matter now stands and if we may expect a speedy settlement?

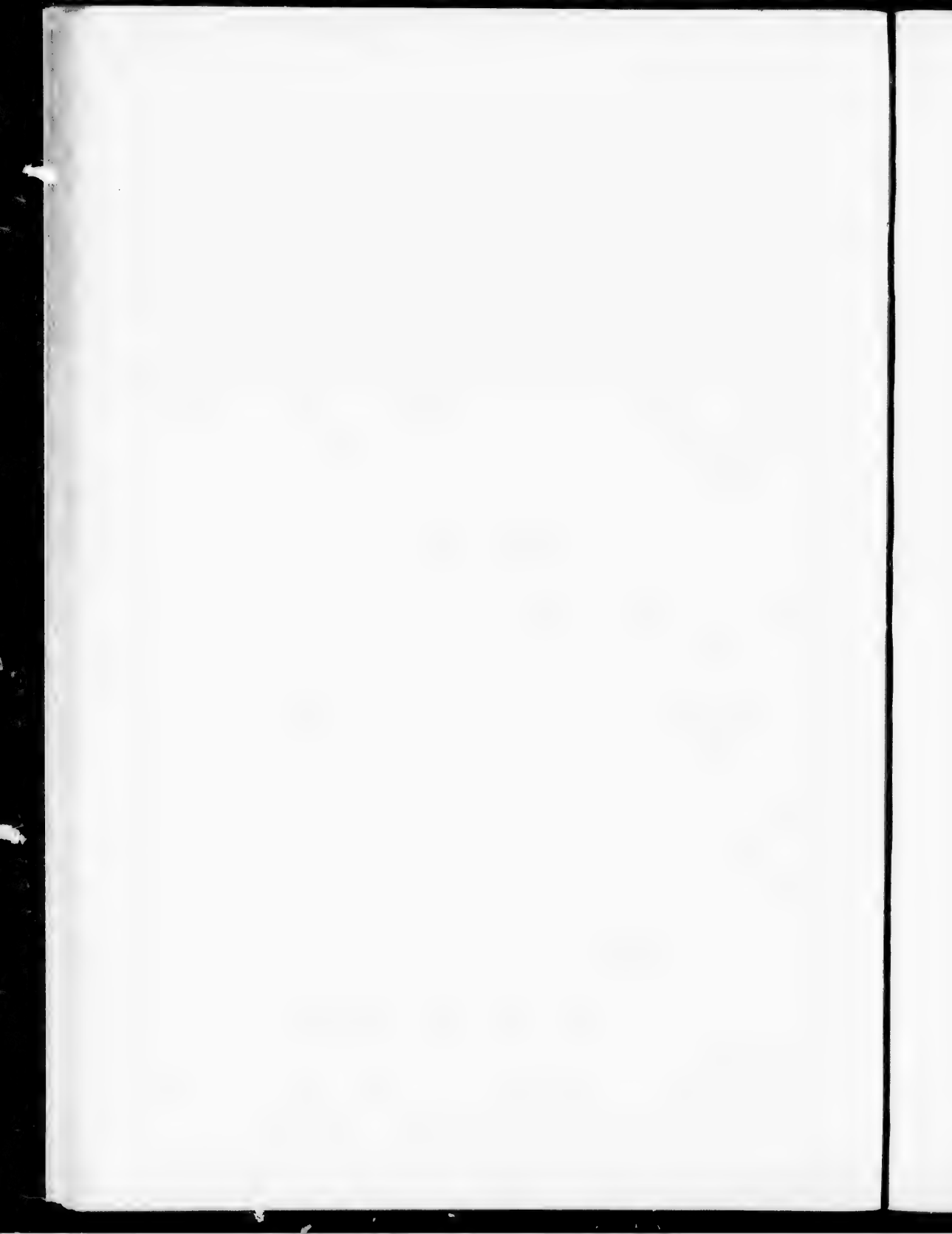
"I understand that Mr. Pearce returned to Ottawa very soon after your letter of 22nd April was written and I have no doubt that all the information which you required in order to make up your mind in the matter has been received.

40

"Awaiting your early reply.

"Yours very sincerely,

"A. R. CREELMAN."



98. On 12th June, 1899, the position of matters was further discussed at a meeting in Toronto between the Minister and Mr. Creelman, when various suggestions were made for the settlement of these difficulties, the Minister among other things stating that negotiations were then in progress with other Companies for the settlement of their Land Grants, that he hoped to be able to satisfy your Petitioners' claim after these negotiations were closed, and he requested further time for that purpose. The Minister further proposed that the claim of your Petitioners should be held in abeyance until after the close of the negotiations which were then in progress with the Canadian Pacific Railway Company.

10 99. After the foregoing suggestions and proposals had been considered by your Petitioners Mr. Creelman on their behalf wrote to the Minister as follows :—

" June 19th, 1899.

" *Hon. Clifford Sifton,*
" *Minister of the Interior,*
" *Ottawa.*

" My dear Mr. Sifton :

" With reference to the claim of the Qu'Appelle, Long Lake & Saskatchewan Railway Co. for its Land Grant, I am bearing carefully in mind what you stated to me on Monday last as to the causes of delay.

20 " I duly reported to the clients on this side of the ocean, and they professed their willingness to wait a short time to see what would be the result of the negotiations of which you spoke.

" Our clients here are to-day in receipt of very strong letters from the English bondholders urging that no further time be lost and instructing immediate proceedings unless the lands can be procured.

" I have thought it best to state to you exactly what occurred, because I am afraid that I cannot let matters stand any longer in their present shape.

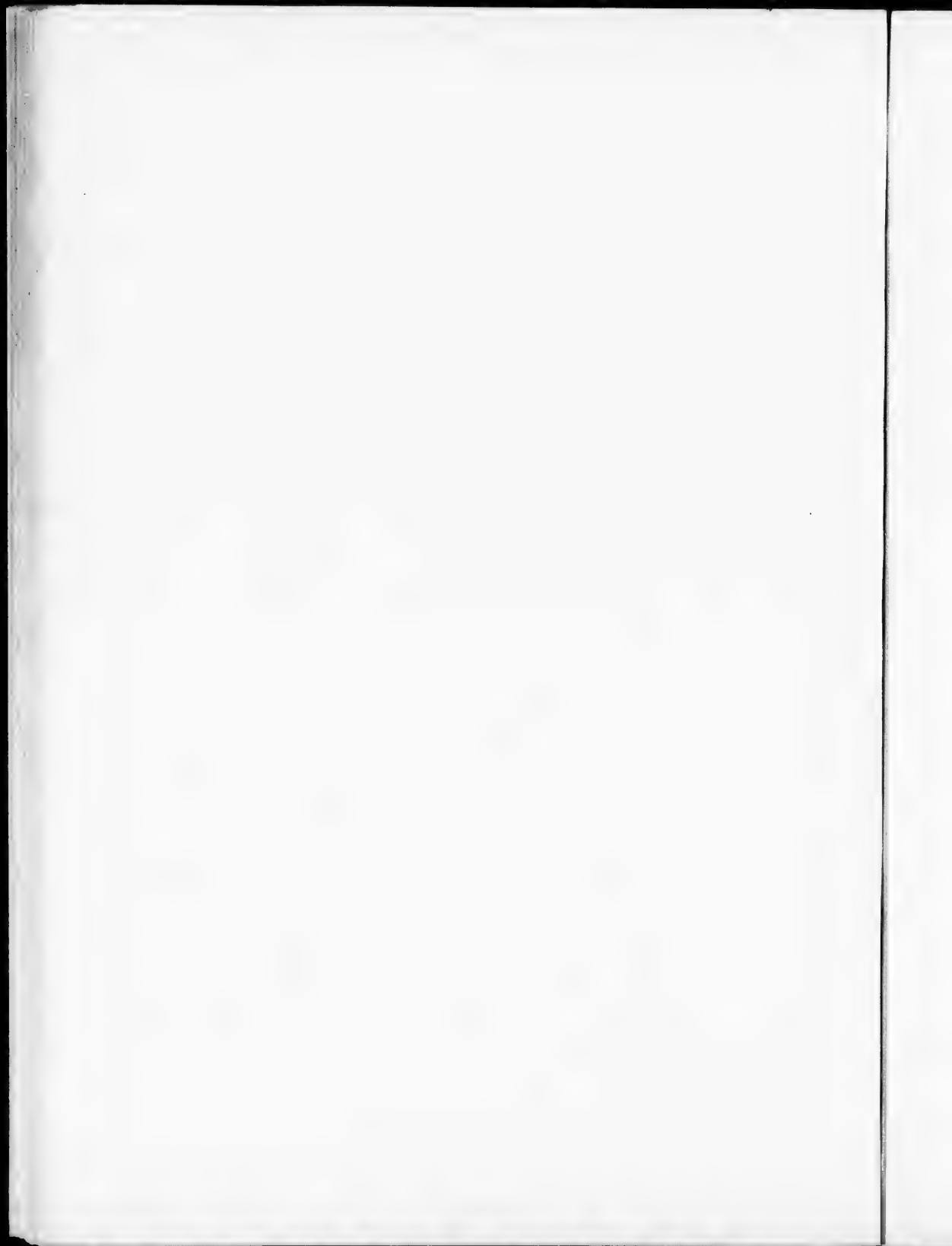
80 " I feel perfectly sure that unless I can by the next mail advise these English bondholders that the lands have been allotted to them or that proceedings have been taken, the instructions will be withdrawn from my hands and placed in the hands of some other solicitors.

" I feel that I cannot blame our clients if they take this course, because it is just four years ago this month since I received my instructions to file a Petition of Right for the recovery of these lands or money compensation.

" I feel quite sure that you will appreciate my position and will readily understand that there is no course open to us except that of filing a Petition of Right unless we can receive a satisfactory assurance that the lands will be placed at our disposal in the near future.

40 " I have submitted and discussed your suggestion that the negotiations with the Canadian Pacific Railway Company would require to be concluded before you can deal with the application of our Company.

" I am assured in the most positive way that there is no prospect of an early settlement between the Government and the Canadian Pacific Railway Com-



"pany, and that the postponing of our application until you deal with that Company simply means that our rights are to remain in abeyance for a very long time

"I shall be very much obliged if you will let me know as soon as possible what is the very best report I can make to our clients on the subject.

"I intend leaving Toronto on Thursday afternoon for a trip to England by the steamer 'Umbria,' leaving New York on Saturday morning, and it would afford me most profound satisfaction if when in England and when discussing this matter with the representatives of the bondholders there I am able to tell them that I have been able to make satisfactory progress. I sincerely trust that you will put it in my power to do so.

"In the communications which have been to-day received from England our correspondents point out with considerable bitterness the circumstance that we have been unable during the four years in which the matter has been in our hands to make any progress towards a settlement or a termination of the difficulties by legal proceedings.

"I shall be glad if you will permit me to make one further observation in this connection and it is that this Company became entitled to its Land Grant nearly six years before we received our instructions.

"Yours truly,

"A. R. CREELMAN."

100. On 20th June the Minister wrote to Mr. Creelman as follows :—

"PERSONAL.

"Ottawa, 20th June, 1899.

"Dear Mr. Creelman :—

"I have your letter of the 19th instant. I am not in a position to blame your clients for their desire to proceed, neither am I in a position to at once allot the lands which they claim to be entitled to. I do not wish you in any way to compromise your professional position in connection with the matter, and it may be that what you say about the arrangements with the Canadian Pacific Railway Company will turn out to be correct. If you will drop me a note before you leave on Thursday, saying what your address is in England, I will write you a letter which will give you as definite a statement of the position as it is possible to furnish.

"Yours faithfully,

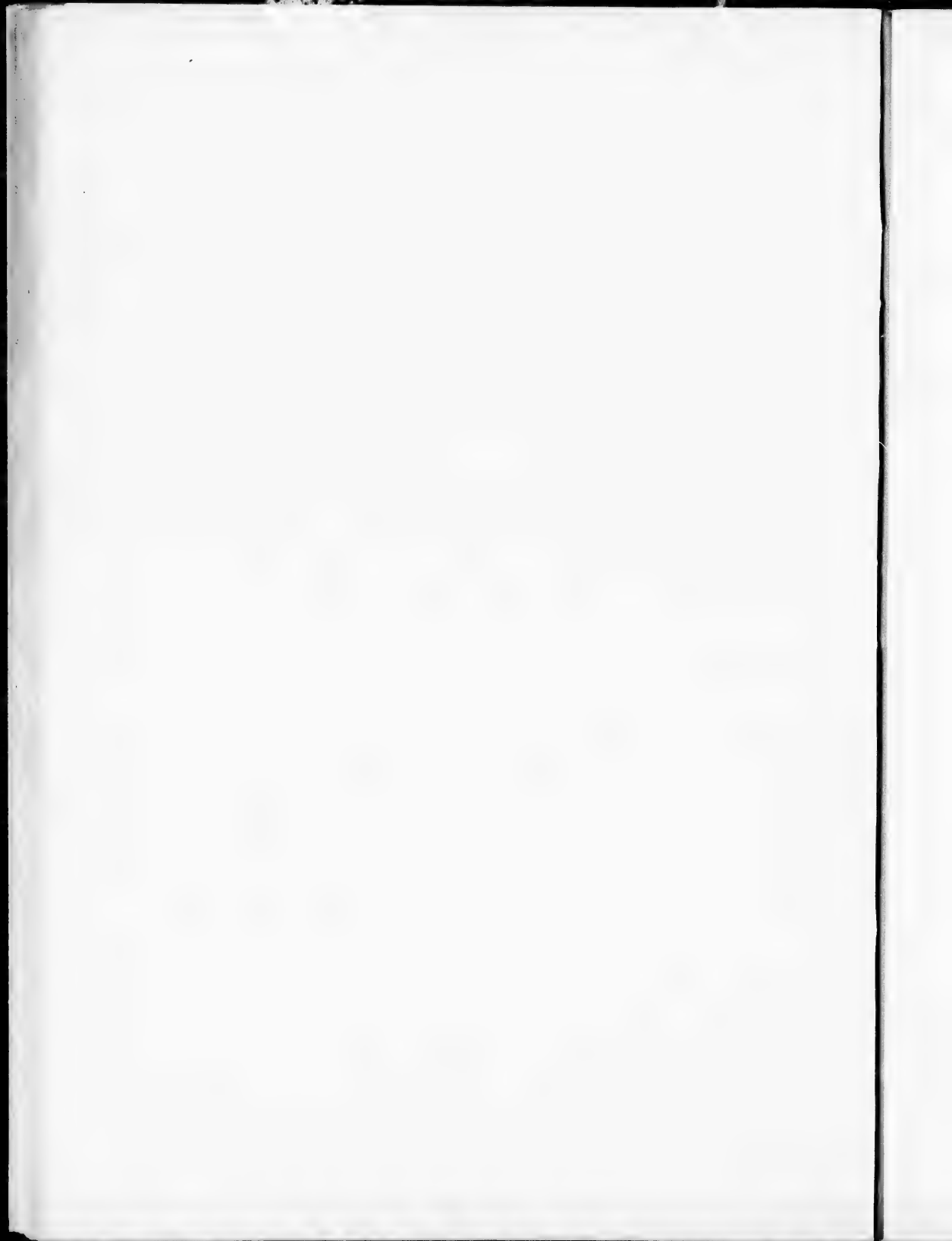
"CLIFFORD SIFTON.

"A. R. CREELMAN, Esq., Q.C.

"Toronto,

"Ont."

40 and on 21st June Mr. Creelman replied to the Minister as follows :—



" June 21st, 1899.

" *Hon. Clifford Sifton,*
" *Minister of the Interior,*
" *Ottawa.*

" Dear Mr. Sifton :—

" I have your letter of yesterday and shall be very glad to hear from you
" when in London. My address will be care of Harrison & Powell, Solicitors, 5
" Raymond Buildings, Gray's Inn, London, W. C.

10

" I am exceedingly sorry that we have not been able to come to some definite
" arrangement before I leave. I trust, however, that your letter to me in London
" will be satisfactory, and at any rate I hope that when I return (which I hope to
" do towards the latter part of July) you will be able to satisfy me that our efforts
" in endeavouring to bring about a settlement of this difficulty have not been in
" vain.

" Yours faithfully,

" A. R. CREELMAN."

101. No further communication on the subject of this claim was made to your
Petitioners or any of them by the Minister or by any one on his behalf until 21st August,
1899, when the Secretary of the Department wrote to the Railway Company as
20 follows :—

" Department of the Interior,

" Ottawa, 21st August, 1899.

" Gentlemen :—

" I have the honour, by direction, to advise you that the Minister of the
" Interior is particularly desirous that the Land Grant to your Company should
" be finally disposed of with the least possible delay. With that object in view
" he has requested Mr. Pearce to be present here on and after the 26th proximo.
" Will you therefore please fix a date, to be as early thereafter as possible, to
" discuss the position with Mr. Pearce, and if possible arrive at a satisfactory
30 " arrangement of this matter.

" I beg to remain,

" Your obedient servant,

" JOHN R. HALL,

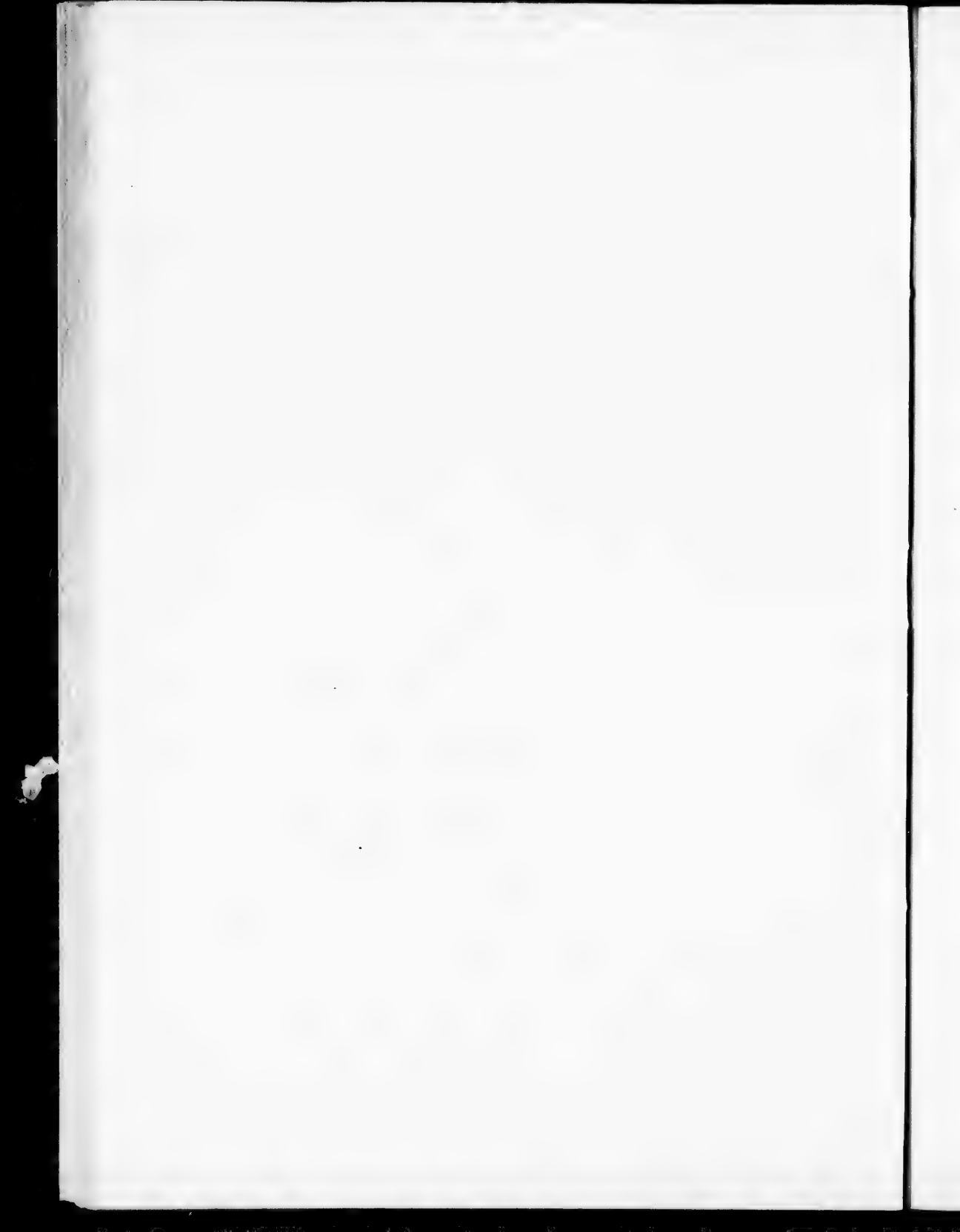
" MESSRS. OSIER, HAMMOND & NANTON,

" Secretary.

" *The Qu'Appelle, Long Lake & Saskatchewan Railway,*

" *Winnipeg, Man.*"

102. The meeting which was suggested in the Secretary's letter of 21st August
took place at Ottawa on the 29th September last and was renewed on the 30th
September when the Government was represented by the Minister and Mr. Pearce, and
40 your Petitioners by Mr. Creelman and Mr. Nanton. After long discussions it was
admitted by the Minister as the result of the examinations and investigations made by
Mr. Pearce pursuant to the agreement entered into on the 20th November, 1898, that the
Government had not at its disposal at that time such lands as, having regard to the
definition agreed upon of the expression "lands fairly fit for settlement," could



reasonably be offered to your Petitioners for the purpose of satisfying the remainder of the said Land Grant, and the only alternative presented to your Petitioners to waiting an indefinite period of time until all other Companies' Land Grants had been satisfied and then select from what, if anything, might be left, was to present a Petition of Right to this Honourable Court to have their rights determined and secured.

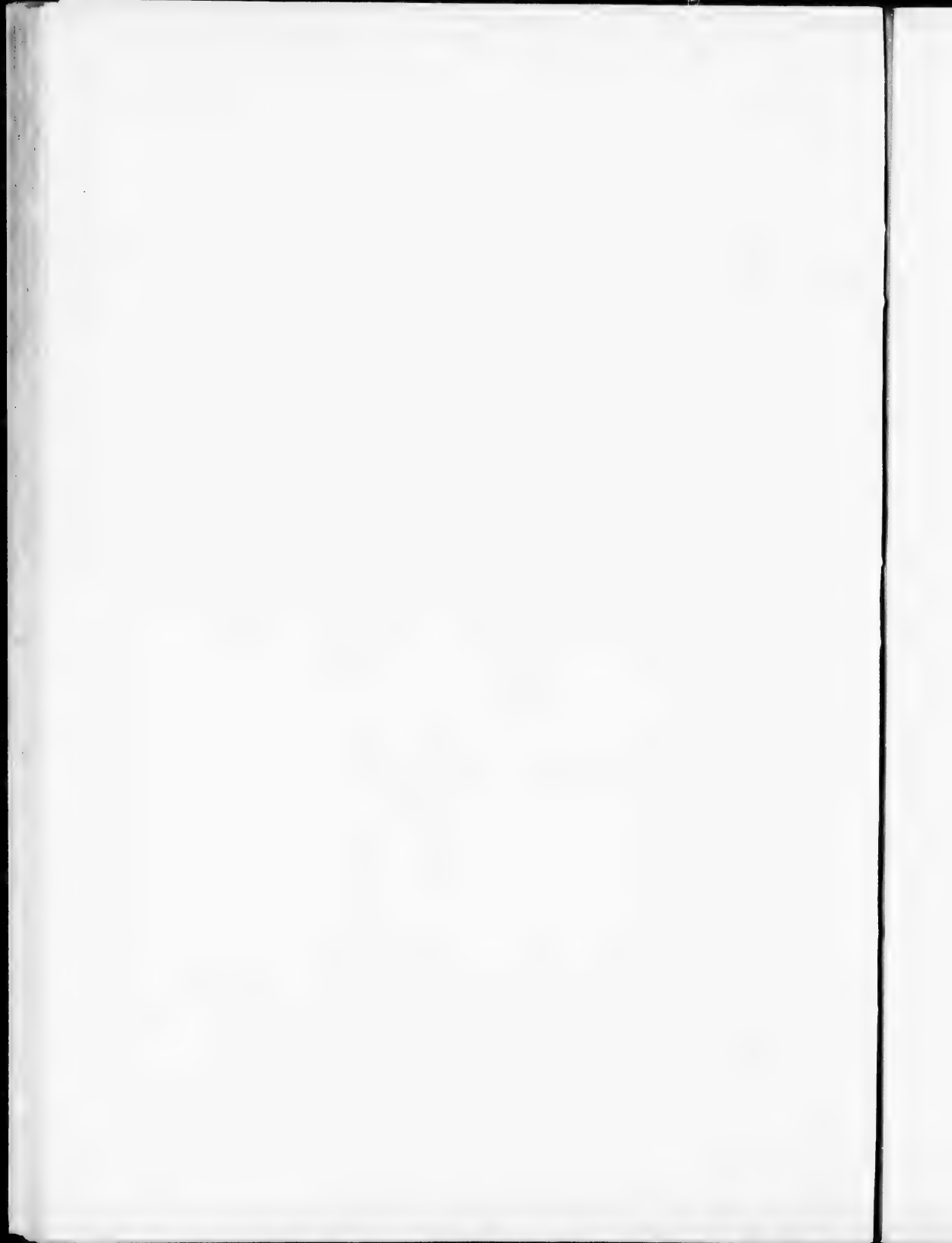
103. In order to show the position with regard to the said Land Grant which is occupied by the Petitioners other than the Railway Company your Petitioners state that in July, 1889, the Railway Company in order to secure the money necessary for the construction and equipment of its said railway entered into an agreement with Messrs.
- 10 Morton, Rose & Co., Bankers, London, England, for the sale to them of a portion of their said Land Grant pursuant to the power conferred upon the Railway Company by the 8th section of its Act of Incorporation and for divers good and valuable considerations it thereunto moving the Railway Company did sell to the said Morton, Rose & Co., 700,000 acres of the said Land Grant and did enter into a covenant to convey the same to the said Morton, Rose & Co. free from all charges or liens excepting the survey fees and incidental expenses amounting to ten cents per acre imposed by the Government of Canada under the Orders-in-Council relating to the said Land Grant.

104. It was in and by the agreement between the Railway Company and the said Morton, Rose & Co. further agreed that the said lands so sold should be vested in the said Morton, Rose & Co., or their nominees as and when they should demand the same from the Railway Company and after the Railway Company became entitled to the same under the said Orders-in-Council or, in the alternative, that the Railway Company would procure patents for the said lands to be issued direct from the Government of Canada to the said Morton, Rose & Co. or their nominees.

105. The said Morton, Rose & Co. duly assigned all their interest in the last mentioned agreement and in the said 700,000 acres of land to your Petitioner the Qu'Appelle, Long Lake & Saskatchewan Land Company (Limited) and did duly nominate the said last named Company as their nominee for the purpose of taking conveyance thereof from the Railway Company or of receiving the Patents for the said lands from the Dominion Government, as the case might be, and the said last named Company is now entitled to receive 700,000 acres of the said Land Grant or to compensation therefor

106. The ^{said} Morton, Rose & Co. and the said Land Company have frequently demanded the said lands but have not yet received the same or any part thereof except the proceeds of a few acres sold by the Land Company from that portion of the said Land Grant received by the Railway Company.

107. The Railway Company has conveyed to your Petitioners the Honourable Donald MacInnes, Osler & Hammond and the Honourable William Pugsley, for divers good and valuable considerations it thereunto moving, all the interest of the Railway Company in the said Land Grant not covered by the sale to Morton, Rose & Co., and not
- 40 including the proportion of the Land Grant to be retained by the Government as aforesaid, the said conveyance being made in pursuance of resolutions of the Railway Company made in August, 1889, and under and by virtue of the said conveyance the said



Petitioners MacInnes, Osler & Hammond and Pugsley, are save as in the next succeeding paragraph mentioned, entitled to the remainder of the said Land Grant not already sold as aforesaid to the said Morton, Rose & Co., or to compensation therefor.

108. After the sale by the Railway Company to your Petitioners MacInnes, Osler & Hammond and Pugsley a portion of the said Land Grant embraced in the said sale, to wit, 39,542 acres thereof and the rights to the same were with the consent, approval and knowledge of the Railway Company and for valuable consideration sold and assigned to your Petitioner the Land Company, which is now entitled to the same in addition to the said other purchase of 700,000 acres.

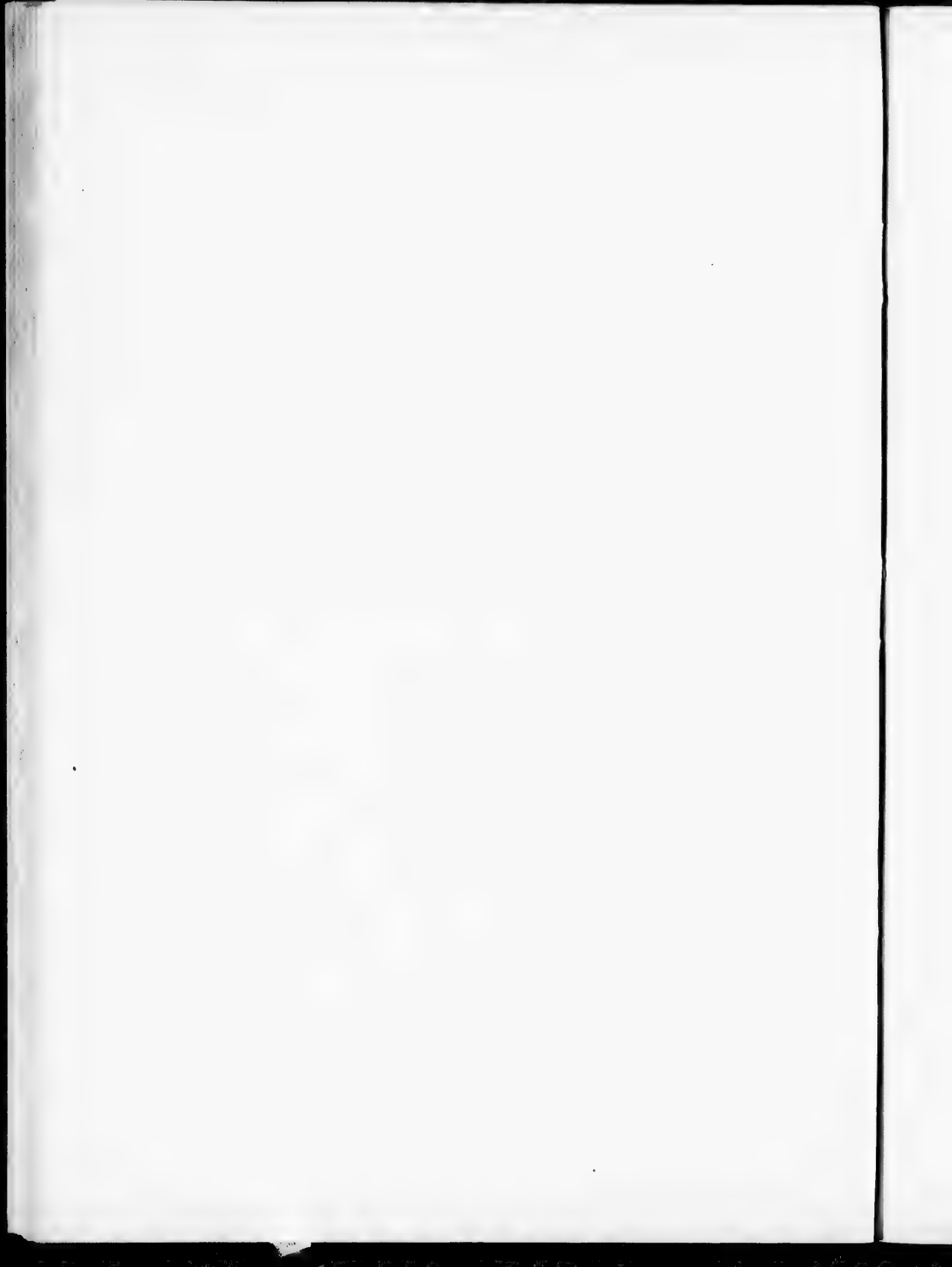
109. Your Petitioner the Railway Company still retains its interest in that portion of its said Land Grant, to wit, one-third thereof, which the Government is entitled to hold as security under the said Cash Subsidy Agreement and subject to the right of the Government to retain the aforesaid one-third of the said Land Grant and to the lien of the Government thereon your Petitioner the Railway Company is entitled to the same and every part thereof.

110. The lands which have up to the present time been accepted and applied for by your Petitioners have not yet been apportioned amongst them, but they are willing and hereby offer to submit to a division thereof between the Land Company on the one hand and your Petitioners MacInnes, Osler & Hammond and Pugsley on the other hand
20 according to their respective interests in the whole Land Grant.

111. Your Petitioner the Railway Company has in every respect fulfilled its contract with the Government of Canada and has running the Railway, built and equipped in every respect and to the perfect satisfaction of the Engineer in charge of Government Railways and of the Government of Canada, which the Railway Company undertook and agreed with the Government of Canada to build and equip and have running, and the Railway Company became entitled in due course to its said Land Grant and your Petitioners have long been and now are entitled thereto according to their respective rights and interests as herein stated or to compensation in money for so much thereof as has not been received by them.

112. At the time this Railway was first laid out and when the said contract was entered into between the Government and the Railway Company and during the time of the construction thereof it would not have been possible to induce any Company or individual to build such a Railway through a new and unsettled part of the country, as was the condition of the country through which this Railway was built, without the assistance to the enterprise which was promised to the Railway Company and afterwards set forth in the said Order-in-Councils and Agreements.

113. Your Petitioners, MacInnes, Osler & Hammond and Pugsley, were promoters of the said Railway and were induced by the strong solicitations of the Government of Canada, who considered the Railway, as is stated in the Act of Incorporation, to be "for
40 "the general advantage of Canada," to take part in the construction of the same. The proposals which were afterwards embodied in the Orders-in-Council and other Agreements



upon which this Petition is founded originated with the Government and were submitted to and accepted by the promoters of the Company and the Company itself. The Government was most anxious that this Railway should be built not only for the purpose of opening up and developing the country through which it was intended to run, but also for political purposes and to enable the Government to more easily control the country tributary to Prince Albert, where a considerable amount of trouble had arisen during the Riel Rebellion, which had been suppressed a short time before at an enormous expense to the country.

114. The Government of Canada and the country generally have received the
10 benefit and advantage which have resulted from a public point of view by the construction and working of the said Railway, and your Petitioners submit that the Government should on its part fulfil its obligations, which were the consideration for such construction and working.

115. Your Petitioners submit that they are now entitled to compensation in money for so much of the said Land Grant as has not been provided by the Government and accepted by them.

YOUR PETITIONERS THEREFORE HUMBLY PRAY AS FOLLOWS :

I. THAT it may be declared by this Honourable Court :

20 (a) That a good and valid contract exists between the Government of Canada and the Railway Company for the Grant by the Government to the Railway Company of 6,400 acres of land per mile of the Company's Railway fairly fit for settlement and to be made up out of the unoccupied and unclaimed odd numbered sections of land in the North-West Territories of Canada at the disposal of the Government, or out of alternate Townships or blocks of land, within ten miles of the Railway Company's line of railway on either side thereof, in so far as is practicable without interfering with any previous grants or reserves, and if there is any deficiency in the area the same
30 to be made up out of any available lands in the North-West Territories of Canada in the discretion of the Governor-General in Council, but subject to the cost of survey of the land and incidental expenses which have been fixed at ten cents per acre.

(b) That the consideration for the said Land Grant was and is the construction, equipment and running of the Railway Company's railway, according to certain specifications and so located, graded and of such gauge as should meet with the approval of the Government of Canada.

40 (c) That the Railway Company did build and equip and did on 12th October, 1890, have running a line of Railway from Regina to Prince Albert, a distance of 253.96 miles ; that such line of railway was duly approved of and accepted by the Gov-

ernment on such date as being in accordance with the specifications agreed upon before the said Railway was built and as being properly located and graded and of the required gauge.

(d) That the Railway Company became entitled on 12th October, 1890, to the lands called for by the said Land Grant, namely 6,400 acres per mile computed upon 233.96 miles of railway, being the total mileage of the Railway from Regina to Prince Albert less the first 20 miles thereof, to wit, 1,497,344 acres of land fairly fit for settlement, subject to the retention by the Government of one third thereof as a security for the execution by the Railway Company of the terms of the Agreement of the 5th day of August, 1889, it being admitted by the Petitioners for the purposes of this Petition that the Government has already provided the Land Grant to which the Railway Company became entitled on 2nd June, 1886, in respect of the said first 20 miles of railway, being from Regina to near Long Lake, to wit, 128,000 acres, although it is not admitted that such lands were fairly fit for settlement.

(e) That with the exception of the said 128,000 acres of land lastly referred to and of 224,336.96 acres which your Petitioners admit having received or accepted, your Petitioners have not, nor has any of them, received the lands contracted for by the said Land Grant.

(f) That your Petitioner the Land Company is entitled to receive from the Government of Canada, out of such lands, 739,542 acres of land fairly fit for settlement, less its proportionate share of the said 224,336.96 acres already accepted.

(g) That your Petitioners MacInnes, Osler & Hammond and Pugsley are entitled to receive from the Government of Canada, out of such lands, 258,688 acres of land fairly fit for settlement less their proportionate share of the said 224,336.96 acres already accepted.

(h) That your Petitioner the Railway Company is entitled to have set apart, out of such lands, 499,114 acres of land fairly fit for settlement; but your Petitioners admit that the same may be retained by the Government as a security for the performance of the said Agreement of 5th August, 1889.

(i) That the expression "lands fairly fit for settlement" in the contract between the Government and the Railway Company means "*that each Quarter Section shall as respects soil and climate be of such a nature that a man can make a reasonable living for himself and his family off such Quarter Section without the use of adjoining lands by ordinary work and industry.*"

(j) That having regard to such definition the Government has not provided and is unable to provide in the said North-West Territories the lands required by the terms of the contract with the Railway Company, to wit, the said 739,542 acres to the Land Company, and the said 258,688 acres to the said MacInnes, Osler & Hammond and Pugsley, less the said 224,336.96 acres already accepted, that is to say, 773,893.04 acres and the said 499,114 acres already referred to.

10

(k) That your Petitioners are entitled to compensation in money for the portion of the said Land Grant to which they are respectively entitled and which the Government has not provided for the purpose of satisfying the said contract and to damages sustained by them through the failure of the Government to provide such lands.

2. AND THAT your Petitioners may be paid by Your Majesty the amount of their claims for compensation and damages as follows, that is to say :

20

(a) That your Petitioner the Land Company may be paid the cash value of 739,542 acres of land less 166,200.78 acres, being the said Petitioner's proportionate share of the said 224,336.96 acres accepted by your Petitioners, that is to say 573,341.22 acres of land, in the North-West Territories of Canada fairly fit for settlement, together with interest thereon from 12th October, 1890.

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(b) That your Petitioners MacInnes, Osler & Hammond and Pugsley may be paid the cash value of 258,688 acres of land less 58,136.18 acres, being the proportionate share of such Petitioners of the said 224,336.96 acres accepted by your Petitioners, that is to say 200,551.82 acres of land in the North-West Territories of Canada fairly fit for settlement, together with interest thereon from 12th October, 1890.

(c) That all your Petitioners may be paid the damages which they have respectively sustained by reason of the breach on the part of the Government of its contract to provide the said Land Grant.

(d) That all your Petitioners may be paid their expenditure in examining and procuring Reports upon the Reserves of lands set apart by the Government for the purpose of satisfying the said Land Grant.

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3. THAT YOUR Petitioners may be awarded the costs of this Petition and of any further proceedings taken in the assertion of these claims.

4. SUCH FURTHER and other relief as the circumstances of the case
may require and as to this Honourable Court may seem meet.

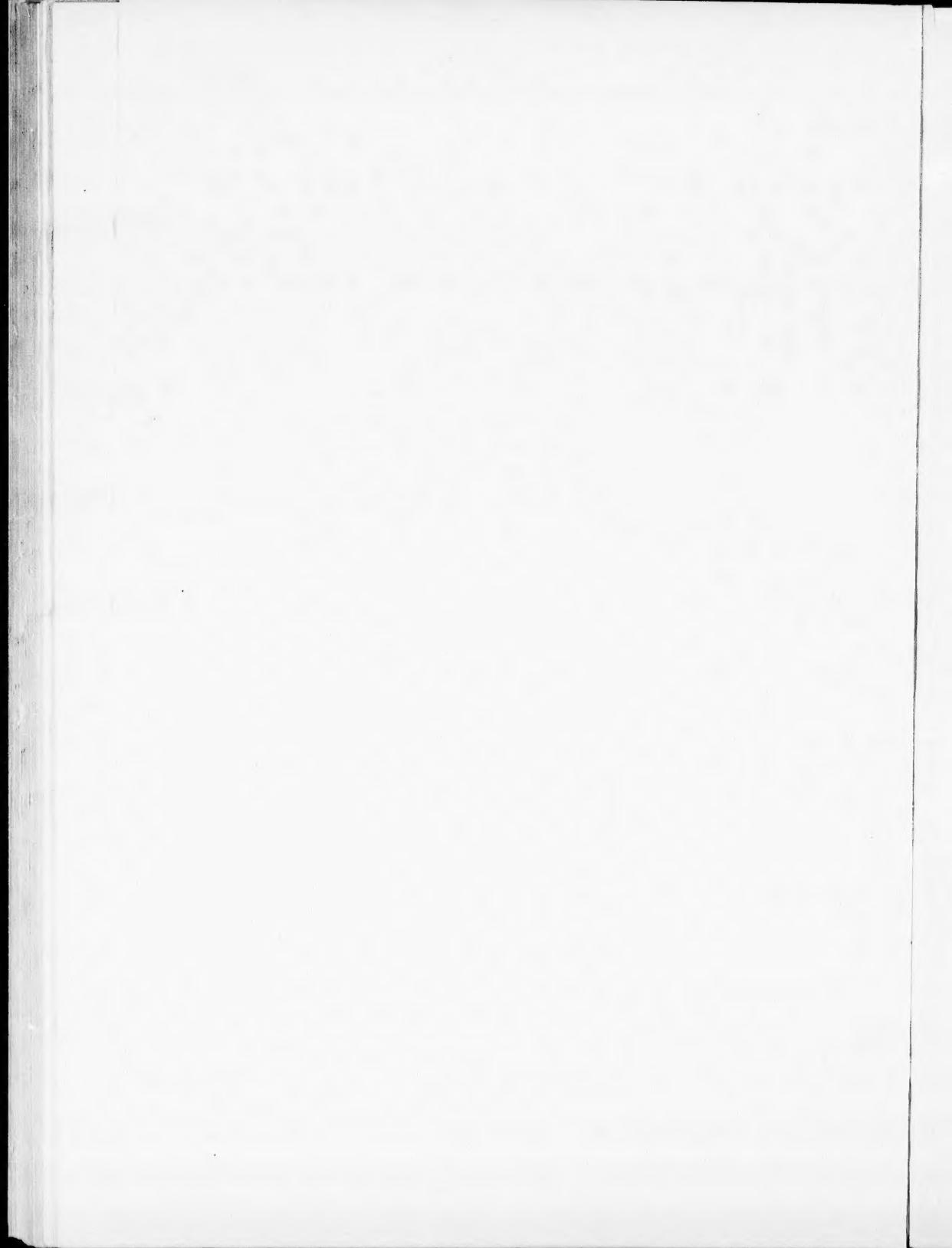
AND YOUR PETITIONERS AS IN DUTY BOUND WILL EVER PRAY.

Dated this 31st day of January, 1900.

A. R. CREELMAN,

Of Counsel for the Petitioners.







IN THE
EXCHEQUER COURT OF CANADA.

**THE QU'APPELLE, LONG LAKE AND
SASKATCHEWAN RAILROAD
AND STEAMBOAT CO'Y
et al.**

VS.

THE QUEEN.

Petition of Right.

The Petitioners pray for a statement in defence on behalf of Her Majesty within four weeks after the date of service hereof, or otherwise that the Petition may be taken as confessed.

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